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Title 41 Chapter 06 Article 12-17: Railroad Trains to Seat Belts - 1988

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NOTES TO DECISIONS

Violation as negligence.

Riding of bicycle in dark without a lamp was violation of this statute and thus established some negligence as a matter of law. Whether

the absence of the lamp was the contributing proximate cause of the collision between bicycle and taxicab was jury question. *Gibbs v. Blue Cab*, 122 Utah 312, 249 P.2d 213 (1952).

ARTICLE 12**RAILROAD TRAINS AND SAFETY ZONES****41-6-91, 41-6-92. Repealed.**

Repeals. — Sections 41-6-91, 41-6-92 (L. 1941, ch. 52, §§ 78, 79; C. 1943, 57-7-155, 57-7-156), relating to passing railroad trains, were repealed by Laws 1979, ch. 242, § 74.

41-6-93. Driving on tracks.

(a) It is unlawful for the driver of any vehicle proceeding upon any track in front of a railroad train upon a street to fail to remove such vehicle from the track as soon as practicable after signal from the operator of such train.

(b) When a railroad train has started to cross an intersection no driver of a vehicle shall drive upon or cross the tracks or in the path of such train within the intersection in front of such train.

History: L. 1941, ch. 52, § 80; C. 1943, 57-7-157.

41-6-94. Driving through safety zone.

No vehicle shall at any time be driven through or within a safety zone.

History: L. 1941, ch. 52, § 81; C. 1943, 57-7-158.

ARTICLE 13**SPECIAL STOPS REQUIRED****41-6-95. Railroad grade crossing — Duty to stop — Driving through, around or under gate or barrier prohibited.**

(a) Whenever any person driving a vehicle approaches a railroad grade crossing, the driver of such vehicle shall stop within fifty feet but not less than ten feet from the nearest track of such railroad and shall not proceed until he can do so safely when:

(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train.

(2) A crossing gate is lowered, or when a human flagman gives or continues to give a signal of the approach or passage of a train.

(3) A railroad train approaching within approximately 1,500 feet of the highway crossing emits a signal audible from such distance and such train by reason of its speed or nearness to such crossing is an immediate hazard.

(4) An approaching train is plainly visible and is in hazardous proximity to such crossing.

(b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gates or barrier is closed or is being opened or closed.

History: L. 1941, ch. 52, § 82; C. 1943, 57-7-159; L. 1949, ch. 65, § 1.

NOTES TO DECISIONS

ANALYSIS

Contributory negligence.
Cited.

Contributory negligence.

This statute does not require all motorists to stop in every instance before crossing railroad tracks. A motorist who failed to look for a train at a point where his view was unobstructed was contributorily negligent as a matter of law and could not recover for damages sustained

when struck by train. *Lundquist v. Kennecott Copper Co.*, 30 Utah 2d 262, 516 P.2d 1182 (1973).

Cited in *Toomer's Estate v. Union Pac. R.R.*, 121 Utah 37, 239 P.2d 163 (1951).

COLLATERAL REFERENCES

Am. Jur. 2d. — 65 Am. Jur. 2d Railroads § 335 et seq.

C.J.S. — 75 C.J.S. Railroads § 773.

Key Numbers. — Railroads ⇐ 327(1) et seq.

41-6-95.5. Trains — Interference with vehicles limited.

No person or government agency shall operate any train in a manner to prevent vehicular use of any roadway for a period of time in excess of five consecutive minutes except:

- (1) when necessary to comply with signals affecting the safety of the movement of trains;
- (2) when necessary to avoid striking any object or person on the track;
- (3) when the train is disabled;
- (4) when the train is in motion or while engaged in switching operations or as determined by local authority;
- (5) when there is no vehicular traffic waiting to use the crossing; or
- (6) when necessary to comply with a governmental safety regulation.

History: C. 1953, 41-6-95.5, enacted by L. 1978, ch. 33, § 47.

41-6-96. Repealed.

Repeals. — Section 41-6-96 (L. 1941, ch. 52, § 83; C. 1943, 57-7-160; L. 1945, ch. 86, § 1), relating to stop signs at dangerous railroad crossings, was repealed by Laws 1978, ch. 33, § 54.

41-6-97. Railroad grade crossings — Certain vehicles must stop — Exceptions — Regulations.

[(1)] Except as provided in Subsection (2), the driver of any vehicle described in regulations issued pursuant to Subsection (3), before crossing at grade any track or tracks of a railroad, shall stop within 50 feet but not less than 10 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train and shall not proceed until it can be done safely. After stopping as required and upon proceeding when it is safe the driver shall cross only in a gear which will ensure no necessity for manually changing gears while traversing the crossing and the driver shall not manually shift gears while so crossing.

(2) This section shall not apply at:

- (a) any railroad grade crossing where traffic is controlled by a police officer or human flagman;
- (b) any railroad grade crossing where traffic is regulated by a traffic control signal;
- (c) any railroad grade crossing where an official traffic-control device gives notice that the stopping requirement imposed by this section does not apply.

(3) The Department of Transportation shall adopt necessary regulations describing the vehicles which must comply with the stopping requirements of this section. In formulating the regulations the Department of Transportation shall give consideration to the number of passengers carried by the vehicle and the hazardous nature of any substance carried by the vehicle. Such regulations shall correlate with and so far as possible conform to the most recent regulation of the United States Department of Transportation.

History: C. 1953, 41-6-97, enacted by L. 1978, ch. 33, § 51.

Repeals and Enactments. — Laws 1978, ch. 33, § 51 repealed former § 41-6-97 (L. 1941, ch. 52, § 84; C. 1943, 57-7-161; L. 1949, ch. 65, § 1; 1961, ch. 86, § 1), imposing duty to

stop at railroad crossings on drivers of buses, school buses and certain trucks, and enacted present § 41-6-97.

Compiler's Notes. — As enacted, this section contained no Subsection (1) designation. The compiler has supplied one, in brackets.

41-6-98. Duties respecting crawler type tractor, power shovel, derrick or other equipment or structure.

(1) No person shall operate or move any crawler type tractor, power shovel, derrick, roller or any equipment or structure having normal operating speed of ten or less miles per hour or a vertical body or load clearance of less than $\frac{1}{2}$ inch per foot of the distance between any two adjacent axles or in any event of less than nine inches measured above the level surface of a roadway upon or across any tracks at a railroad grade crossing without first complying with this section.

(2) Notice of any such intended crossing shall be given to a station agent of such railroad and a reasonable time shall be given to such railroad to provide proper protection at such crossing.

(3) Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than ten feet nor more than fifty feet from the nearest rail of such railway and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a railroad train, and shall not proceed until the crossing can be made safely.

(4) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be made under his direction.

History: L. 1941, ch. 52, § 85; C. 1943, 57-7-162; L. 1949, ch. 65, § 1; 1961, ch. 86, § 1; 1978, ch. 33, § 32.

COLLATERAL REFERENCES

C.J.S. — 75 C.J.S. Railroads § 773.

Key Numbers. — Railroads ⇌ 327(1) et seq.

41-6-99. Designation of through highways — Stop signs, yield signs and traffic-control devices — Designation of intersections as locations for preferential right-of-way treatment.

The Department of Transportation with reference to state highways and local authorities with reference to highways under their jurisdiction may erect and maintain stop signs, yield signs, or other official traffic-control devices to designate through highways, or to designate intersections or other roadway junctions at which vehicular traffic on one or more of the roadways should yield or stop and yield before entering the intersection or junction.

History: C. 1953, 41-6-99, enacted by L. 1979, ch. 242, § 20.

Repeals and Enactments. — Laws 1979, ch. 242, § 20 repealed former § 41-6-99 (L.

1941, ch. 52, § 86; C. 1943, 57-7-163; L. 1949, ch. 65, § 1; 1961, ch. 86, § 1; 1975, ch. 207, § 40), relating to through highways and intersections, and enacted present § 41-6-99.

NOTES TO DECISIONS

Duty at through streets.

A motorist who stops at a through street before entering has been held to be privileged

thereafter without restriction, and may rely upon right-of-way given to him. *Smith v. Lenzi*, 74 Utah 362, 279 P. 893 (1929).

COLLATERAL REFERENCES

Am. Jur. 2d. — 7A Am. Jur. 2d Automobiles and Highway Traffic §§ 248 to 253.

C.J.S. — 60A C.J.S. Motor Vehicles § 360.
Key Numbers. — Automobiles ⇌ 171(4).

41-6-100. Vehicles emerging from alleys, buildings, private roads or driveways must stop prior to sidewalk area or street.

The driver of a vehicle emerging from an alley, building, private road or driveway within a business or residence district shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alley, building entrance, road or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon.

History: C. 1953, 41-6-100, enacted by L. 1978, ch. 33, § 52.

Repeals and Enactments. — Laws 1978, ch. 33, § 52 repealed former § 41-6-100 (L.

1941, ch. 52, § 87; C. 1943, 57-7-164; L. 1949, ch. 65, § 1), relating to duties of driver emerging from alley, driveway or building, and enacted present § 41-6-100.

COLLATERAL REFERENCES

Am. Jur. 2d. — 7A Am. Jur. 2d Automobiles and Highway Traffic § 242.

C.J.S. — 60A C.J.S. Motor Vehicles § 345.
Key Numbers. — Automobiles ⇌ 167(1).

41-6-100.10. School bus — Signs and light signals — Flashing amber lights — Flashing red lights — Passing school bus — Duty to stop — Travel in opposite direction.

(1) (a) Every school bus, when operated for the transportation of school children, shall bear upon the front and rear of the bus a plainly visible sign containing the words "school bus" in letters not less than eight inches in height, which shall be removed or covered when the vehicle is not in use for the transportation of school children.

(b) Every school bus, when operated for the transportation of school children, shall be equipped with alternating flashing amber and red light signals visible from the front and rear, of a type approved and mounted as prescribed by the department.

(2) The operator of any vehicle upon a highway, upon meeting or overtaking any school bus equipped with signals required under this section which is displaying alternating flashing amber warning light signals, shall slow his vehicle, but may proceed past the school bus using due care and caution at a speed not greater than specified in Subsection 41-6-46(2) for school zones for the safety of the school children that may be in the vicinity. If a school bus is displaying alternating flashing red light signals visible from the front or rear, all approaching or overtaking vehicles on the same roadway shall stop immediately before reaching the bus and may not proceed until the flashing red light signals cease operation. The operator of a vehicle need not stop upon meeting or passing a school bus traveling in the opposite direction when:

- (a) traveling upon a divided highway;
- (b) the bus is stopped at an intersection or other place controlled by an official traffic-control device or peace officer; or
- (c) upon a highway of five or more lanes, which may include a left-turn lane or two-way left turn lane.

(3) (a) The operator of a school bus shall operate alternating flashing red light signals at all times when children are unloading from a school bus to cross a highway, or when a school bus is stopped for the purpose of loading children who must cross a highway to board the bus, or at any other time when it would be hazardous for vehicles to proceed past the stopped school bus.

(b) The alternating flashing red light signals may not be operated except when the school bus is stopped for loading or unloading school children or for any emergency purpose.

History: C. 1953, 41-6-100.10, enacted by L. 1959, ch. 66, § 2; L. 1961, ch. 86, § 1; 1975, ch. 207, § 41; 1983, ch. 339, § 1; 1985, ch. 45, § 1; 1987, ch. 135, § 2.

Amendment Notes. — The 1985 amendment substituted "of the bus" for "thereof" in the first sentence of Subsection (1); deleted the last three sentences of Subsection (1), which read, "A school bus purchased after the effective date of this act shall be equipped with a Utah splitter switch, or its equivalent, for independent control of front and rear flashing warning lights. The switch may be used on highways to stop or slow overtaking vehicles while allowing approaching traffic to pass without slowing or stopping. Effective January 1, 1985, all school buses must be so equipped"; substituted "required under this section" for "herein required" in the first sentence of Subsection (2); substituted "two feet" for "12 feet" in the last sentence of Subsection (2); and made minor changes in punctuation.

The 1987 amendment in Subsection (1) designated the previously undesignated provisions as last amended by Laws 1985, ch. 45, § 1 and in Subsection (1)(b) inserted "amber and" preceding "red light signals"; in Subsec-

tion (2) near the end of the first sentence inserted "at a speed not greater than specified in Subsection 41-6-46(2)" following "due care and caution," in the second sentence inserted "on the same roadway" following "all approaching or overtaking vehicles," and inserted "red light" following "may not proceed until the flashing," substituted the present third sentence for the former third sentence of Subsection (2) as last amended by Laws 1985, ch. 45, § 1; in Subsection (3) designated the previously undesignated provisions and in (3)(a) inserted "alternating flashing red light" following "a school bus shall operate," substituted "a highway" for "a street, highway, or road," and substituted "cross a highway to board the bus" for "cross a highway, street, or road to board the bus"; and made minor changes in phraseology and punctuation throughout the section.

Cross-References. — Regulations regarding design and operation of school buses, § 41-6-115.

School buses removed from service and put to nonschool use, repainting, § 41-7-4.

Standards and specifications for lighting and special warning devices on school buses, § 41-6-140.10.

ARTICLE 14

STOPPING, STANDING AND PARKING

41-6-101. Stopping or parking on roadway outside business or residential district.

Outside a business or residence district no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the roadway when it is practical to stop, park, or so leave such vehicle off the roadway, but in every event an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicle shall be available from a distance of 200 feet in each direction upon such roadway.

This section and Sections 41-6-103 and 41-6-104 shall not apply to the driver of any vehicle which is disabled while on the paved or main traveled portion of a roadway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position.

History: L. 1941, ch. 52, § 88; C. 1943, 57-7-165; L. 1975, ch. 207, § 42; 1978, ch. 33, § 33.

NOTES TO DECISIONS

ANALYSIS

Negligence.

Question for jury.

Voluntary stopping.

Negligence.

A defendant could be found liable for his negligence in parking his truck on the highway even though a third party (the driver of the car in which plaintiff was riding) also was negligent in the manner in which he drove so that he could not avoid the truck. *Hillyard v. Utah By-Products Co.*, 1 Utah 2d 143, 263 P.2d 287 (1953).

Bus driver was negligent in failing to pull bus completely off the main traveled portion of the highway to allow passengers to disembark and bus company was liable for injuries to guest in auto that collided with protruding rear end of the bus. *Stapley v. Salt Lake City Lines*, 18 Utah 2d 1, 414 P.2d 88 (1966).

Question for jury.

The parking of a vehicle upon the paved or traveled portion of a highway is generally re-

garded as a hazard to traffic thereon, and the court was justified in submitting the question of defendant's negligence in parking the truck to the jury and the latter were warranted in finding that such negligence existed. *Hillyard v. Utah By-Products Co.*, 1 Utah 2d 143, 263 P.2d 287 (1953).

Voluntary stopping.

This section deals only with cases where the driver stops his car on the highway from his own choice, and has an opportunity to select the place and conditions of his stop. It was not intended to regulate stopping forced by congested traffic on the highway where the driver wishes to proceed but cannot because of cars on the highway ahead of him. *General Ins. Co. of Am. v. Lewis*, 121 Utah 440, 243 P.2d 433 (1952).

COLLATERAL REFERENCES

Am. Jur. 2d. — 7A Am. Jur. 2d Automobiles and Highway Traffic § 271 et seq.

C.J.S. — 60A C.J.S. Motor Vehicles § 330.

A.L.R. — Parking illegally at or near street corner or intersection as affecting liability for motor vehicle accident, 4 A.L.R.3d 324.

Applicability of last clear chance doctrine to collision between moving and stalled, parked or standing motor vehicle, 34 A.L.R.3d 570.

Failure to set brakes, or maintain adequate brakes, as causing accidental runaway of parked motor vehicle, 42 A.L.R.3d 1252.

Failure of motorist to cramp wheels against curb or turn them away from traffic, or to shut off engine, as causing accidental starting up of parked motor vehicle, 42 A.L.R.3d 1283.

Presumption of negligence and application of

res ipsa loquitur doctrine in action for injury or damages caused by accidental starting up of parked motor vehicle, 55 A.L.R.3d 1260.

Liability or recovery in automobile negligence action as affected by absence or insufficiency of lights on parked or standing motor vehicle, 61 A.L.R.3d 13.

Sudden emergency as exception to rule requiring motorist to maintain ability to stop within assured clear distance ahead, 75 A.L.R.3d 327.

Liability of governmental unit or its officers for injury to innocent pedestrian or occupant of parked vehicle, or for damage to such vehicle, as result of police chase, 100 A.L.R.3d 815.

Key Numbers. — Automobiles ⇐ 173(4).

41-6-102. Police officer authorized to move vehicle.

(1) Whenever any police officer finds a vehicle in violation of Section 41-6-101 such officer is hereby authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the roadway.

(2) Any police officer is authorized to remove or cause to be removed to a place of safety any unattended vehicle illegally left standing upon any highway, bridge, causeway or in any tunnel in such position or under such circumstances as to obstruct the normal movement of traffic.

(3) Any police officer is authorized to remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon a highway when:

(a) Report has been made that such vehicle has been stolen or taken without the consent of its owner, or

(b) The person or persons in charge of such vehicle are unable to provide for its custody or removal, or

(c) When the person driving or in control of such vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before a proper magistrate without unnecessary delay.

History: L. 1941, ch. 52, § 89; C. 1943, 57-7-166; L. 1975, ch. 207, § 43; 1978, ch. 33, § 34.

COLLATERAL REFERENCES

Am. Jur. 2d. — 7A Am. Jur. 2d Automobiles and Highway Traffic § 284.

C.J.S. — 60A C.J.S. Motor Vehicles § 333.
Key Numbers. — Automobiles ☞ 173(1).

41-6-103. Standing or parking vehicles — Restrictions and exceptions.

Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control device, no person shall:

(1) Stop, stand or park a vehicle:

(a) on the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(b) on a sidewalk;

(c) within an intersection;

(d) on a crosswalk;

(e) between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;

(f) alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(g) upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(h) on any railroad tracks;

(i) on any controlled-access highway;

(j) in the area between roadways of a divided highway, including crossovers;

- (k) any place where official traffic-control devices prohibit stopping.
- (2) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:
 - (a) in front of a public or private driveway;
 - (b) within 15 feet of a fire hydrant;
 - (c) within 20 feet of a crosswalk at an intersection;
 - (d) within 30 feet upon the approach to any flashing signal, stop sign, yield sign or traffic-control signal located at the side of a roadway;
 - (e) within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly signposted;
 - (f) at any place where official traffic-control devices prohibit standing.
- (3) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers:
 - (a) within 50 feet of the nearest rail of a railroad crossing;
 - (b) at any place where official traffic-control devices prohibit parking.
- (4) No person shall move a vehicle not lawfully under such person's control into any prohibited area or an unlawful distance from the curb.

History: C. 1953, 41-6-103, enacted by L. 1978, ch. 33, § 53.

Repeals and Enactments. — Laws 1978, ch. 33, § 53 repealed former § 41-6-103 (L. 1941, ch. 52, § 90; C. 1943, 57-7-167; L. 1949,

ch. 65, § 1; 1973, ch. 81, § 4), prohibiting stopping, standing or parking a vehicle in certain specified places, and enacted present § 41-6-103.

COLLATERAL REFERENCES

Am. Jur. 2d. — 7A Am. Jur. 2d Automobiles and Highway Traffic § 271.

C.J.S. — 60A C.J.S. Motor Vehicles § 330.
Key Numbers. — Automobiles ⇨ 173(4).

41-6-104. Stopping or parking upon roadways — Angle parking — Traffic-control devices prohibiting or restricting.

(1) Except as otherwise provided in this section, every vehicle stopped or parked upon a two-way roadway shall be stopped or parked with the right-hand wheels parallel to and within twelve inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.

(2) Except when otherwise provided by local ordinance, every vehicle stopped or parked upon a one-way roadway shall be stopped or parked parallel to the curb or edge of the roadway in the direction of authorized traffic movement with its right-hand wheels within twelve inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder or with its left-hand wheels within twelve inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.

(3) Local authorities may by ordinance permit angle parking on any roadway, except that angle parking shall not be permitted on any federal-aid or

state highway unless the Department of Transportation has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(4) The Department of Transportation with respect to highways under its jurisdiction may place traffic-control devices prohibiting or restricting the stopping, standing, or parking of vehicles on any highway where in its opinion such stopping, standing, or parking is dangerous to those using the highway or where the stopping, standing, or parking of vehicles would unduly interfere with the free movement of traffic. No person shall stop, stand, or park any vehicle in violation of the restriction indicated by such devices.

History: L. 1941, ch. 52, § 91; C. 1943, 57-7-168; L. 1949, ch. 65, § 1; 1975, ch. 207, § 44; 1978, ch. 33, § 35.

Cross-References. — Disabled persons, parking privileges, § 41-1-49.9.

COLLATERAL REFERENCES

Am. Jur. 2d. — 7A Am. Jur. 2d Automobiles and Highway Traffic §§ 274, 275.

C.J.S. — 60A C.J.S. Motor Vehicles § 336.
Key Numbers. — Automobiles ⇨ 173(2).

ARTICLE 15

MISCELLANEOUS RULES

41-6-105. Motor vehicle left unattended — Requirements.

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition and removing the key, placing the transmission in "park" or the gears in "low" or "reverse" if the vehicle has a manual shift, or effectively setting the brakes thereon; and, when standing upon any perceptible grade, turning the front wheels to the curb or side of the highway.

History: L. 1941, ch. 52, § 92; C. 1943, 57-7-169; L. 1969, ch. 112, § 1.

NOTES TO DECISIONS

ANALYSIS

Contributory negligence.
Jury question.

Contributory negligence.

In action for injuries suffered by driver of city garbage truck, when parking brake on the garbage truck, of which he was in charge, suddenly gave way so that he was unable to get back into and control the garbage truck, issues of whether the driver had left the truck unattended in violation of this section and whether his conduct proximately contributed to his own injuries were issues on which the defendant manufacturer of the garbage truck had the burden of proof and it was the duty of the trial

court to submit such issues to a jury if there was any reasonable basis for doing so. *Thompson v. Ford Motor Co.*, 16 Utah 2d 30, 395 P.2d 62 (1964).

Jury question.

Where there was a lack of certainty as to plaintiff's attention to truck involved in collision and whether plaintiff was close enough to control the truck, a jury question existed as to whether the truck was left "unattended" within the meaning of this section. *Thompson*

v. Ford Motor Co., 14 Utah 2d 334, 384 P.2d 109 (1963).

COLLATERAL REFERENCES

Am. Jur. 2d. — 7A Am. Jur. 2d Automobiles and Highway Traffic §§ 274 to 279.

C.J.S. — 60A C.J.S. Motor Vehicles § 336.

A.L.R. — Contributory negligence as defense to action for injury or damage caused by accidental starting up of parked motor vehicle, 43 A.L.R.3d 930.

Presumption of negligence and application of *res ipsa loquitur* doctrine in action for injury or damages caused by accidental starting up of parked motor vehicle, 55 A.L.R.3d 1260.

Key Numbers. — Automobiles ⇌ 173(2).

41-6-106. Backing — When permissible.

(a) The driver of a vehicle shall not back the same unless such movement can be made with safety and without interfering with other traffic.

(b) The driver of a vehicle shall not back the same upon any shoulder or roadway of any limited-access roadway.

History: C. 1943, 57-7-169.10, enacted by L. 1949, ch. 65, § 1; L. 1975, ch. 207, § 45.

COLLATERAL REFERENCES

Am. Jur. 2d. — 7A Am. Jur. 2d Automobiles and Highway Traffic § 270.

C.J.S. — 60A C.J.S. Motor Vehicles §§ 300, 302.

A.L.R. — Liability of owner or operator of

automobile for injury to one assisting in extricating or starting his stalled or ditched car, 3 A.L.R.3d 780.

Key Numbers. — Automobiles ⇌ 169.

41-6-106.10. Sidewalk — Driving prohibited — Exception.

No person shall drive any vehicle upon a sidewalk or sidewalk area except upon a permanent or duly authorized or temporary driveway.

History: C. 1953, 46-6-106.10, enacted by L. 1975, ch. 207, § 46.

Cross-References. — Pedestrian vehicles for physically disabled persons, § 41-6-82.50.

41-6-107. Motorcycle or motor-driven cycle — Place for operator to ride — Passengers.

(a) A person operating a motorcycle or motor-driven cycle shall ride only upon the permanent and regular seat attached thereto and such operator shall not carry any other person nor shall any other person ride on a motorcycle or a motor-driven cycle unless such vehicle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat, if designed for two persons, or upon another seat firmly attached to the motorcycle or motor-driven cycle at the rear or side of the operator.

(b) A person shall ride upon a motorcycle or motor-driven cycle only while sitting astride the seat, facing forward, with one leg on either side of the motorcycle or motor-driven cycle.

(c) No person shall operate a motorcycle or motor-driven cycle while carrying any package, bundle, or other article which prevents him from keeping both hands on the handlebars.

(d) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the motorcycle or motor-driven cycle or the view of the operator.

History: C. 1943, 57-7-169.11, enacted by L. 1949, ch. 65, § 1; L. 1969, ch. 113, § 1.

41-6-107.2. Motorcycles, motor-driven cycles, or all-terrain type I vehicles — Operation on public highways.

(1) All motorcycles and motor-driven cycles are entitled to full use of a lane and no motor vehicle may be driven in a manner so as to deprive any motorcycle or motor-driven cycle of the full use of a lane. This subsection does not apply to motorcycles or motor-driven cycles operated two abreast in a single lane.

(2) The operator of a motorcycle or motor-driven cycle may not overtake and pass in the same lane occupied by the vehicle being overtaken.

(3) No person may operate a motorcycle or motor-driven cycle between lanes of traffic, or between adjacent lines or rows of vehicles.

(4) Motorcycles or motor-driven cycles may not be operated more than two abreast in a single lane.

(5) Subsections (2) and (3) do not apply to police officers in the performance of their official duties.

(6) The provisions of this section also apply to all-terrain type I vehicles.

History: C. 1953, § 41-6-107.2, enacted by L. 1969, ch. 113, § 2; 1987, ch. 162, § 26.

Amendment Notes. — The 1987 amendment redesignated the subsections of this sec-

tion, added the present Subsection (6), and made minor changes in phraseology and punctuation throughout the section.

41-6-107.4. Motorcycle or motor-driven cycle — Attaching to another vehicle prohibited.

No person riding upon a motorcycle or motor-driven cycle shall attach himself to any other vehicle on a roadway.

History: C. 1953, 41-6-107.4, enacted by L. 1969, ch. 113, § 3.

41-6-107.6. Motorcycle or motor-driven cycle — Footrests for passenger — Height of handlebars limited.

(a) Any motorcycle or motor-driven vehicle carrying a passenger on a public highway, other than in a sidecar or enclosed cab, shall be equipped with footrests for such passenger.

(b) No person shall operate any motorcycle or motor-driven cycle with handlebars above shoulder height.

History: C. 1953, 41-6-107.6, enacted by L. 1969, ch. 113, § 4.

41-6-107.8. Motorcycle or motor-driven cycle — Protective headgear — Closed cab excepted — Specifications and standards.

(a) No person under the age of 18 shall operate or ride upon a motorcycle or motor-driven cycle upon a public highway unless such person is wearing protective headgear which complies with standards established by the commissioner of public safety.

(b) This section shall not apply to persons riding within a closed cab.

(c) The commissioner of public safety is authorized to promulgate and enforce specifications and standards for the use of protective headgear required herein.

History: C. 1953, 41-6-107.8, enacted by L. 1969, ch. 113, § 5; L. 1977, ch. 267, § 1.

NOTES TO DECISIONS

Constitutionality.

This section is a valid exercise of police power; standards as to type of headgear to be worn are sufficiently specific; fact that it is ap-

plicable only to highways where speeds exceed 35 MPH does not render it invalid. State v. Acker, 26 Utah 2d 104, 485 P.2d 1038 (1971).

COLLATERAL REFERENCES

A.L.R. — Validity of traffic regulations requiring motorcyclists to wear protective headgear, 32 A.L.R.3d 1270.

Failure of motorcyclist to wear protective

helmet or other safety equipment as contributory negligence, assumption of risk, or failure to avoid consequences of accident, 40 A.L.R.3d 856.

41-6-108. Prohibition as to passenger riding on improper portion of motor vehicle — Exceptions.

No person shall ride, and no person driving a motor vehicle shall knowingly permit any person to ride, upon any portion of any vehicle not designed or intended for the use of passengers. This provision shall not apply to any vehicle driven elsewhere than upon a highway or to an employee engaged in the necessary discharge of his duty or to persons riding within or upon any motor vehicle in space intended for any load on said vehicle.

History: C. 1943, 57-7-169.12, enacted by L. 1949, ch. 65, § 1.

41-6-108.10. Vehicle door — Prohibited opening.

No person shall open the door of a motor vehicle on a side available to moving traffic unless and until it is safe to do so and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on a side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

History: C. 1953, 41-6-108.10, enacted by
L. 1975, ch. 207, § 47.

41-6-109. Obstruction to driver's view or driving mechanism.

(1) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(2) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle.

History: L. 1941, ch. 52, § 93; C. 1943,
57-7-170; L. 1978, ch. 33, § 36.

NOTES TO DECISIONS

Construction and application.

Section is intended to promote safety upon the highways, and to charge all persons riding in cars with some responsibility for safe driving, at least to the extent of not interfering

with the driver's vision or his operation and control of the vehicle. *Nelson v. Arrowhead Freight Lines*, 99 Utah 129, 104 P.2d 225 (1940).

COLLATERAL REFERENCES

C.J.S. — 60A C.J.S. Motor Vehicles § 363.
Key Numbers. — Automobiles ☞ 150.

41-6-109.5. Occupancy of house trailer while being moved on highway prohibited.

No person shall occupy a house trailer while it is being moved upon a public highway.

History: C. 1953, 41-6-109.5, enacted by L.
1978, ch. 33, § 48.

41-6-109.10. Entering intersection, crosswalk or railroad grade — Sufficient space required.

No driver shall enter an intersection or a marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle he is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains notwithstanding any traffic-control signal indication to proceed.

History: C. 1953, 41-6-109.10, enacted by
L. 1975, ch. 207, § 48.

41-6-110. Driving in canyons and on mountain highways.

The driver of a motor vehicle traveling through defiles or canyons or on mountain highways shall hold such motor vehicle under control and as near the right-hand edge of the roadway as reasonably possible and, except when driving entirely on the right of the center of the roadway shall give audible warning with the horn of such motor vehicle upon approaching any curve where the view is obstructed within a distance of 200 feet along the highway.

History: L. 1941, ch. 52, § 94; C. 1943, 57-7-171; L. 1975, ch. 207, § 49.

COLLATERAL REFERENCES

C.J.S. — 60A C.J.S. Motor Vehicles § 246.

Key Numbers. — Automobiles ⇌ 146.

41-6-111. Coasting prohibited.

(a) The driver of any motor vehicle when traveling upon a downgrade shall not coast with the gears or transmission of such vehicle in neutral.

(b) The driver of a truck or bus when traveling upon a downgrade shall not coast with the clutch disengaged.

History: L. 1941, ch. 52, § 95; C. 1943, 57-7-172; L. 1975, ch. 207, § 50.

41-6-112. Following fire apparatus or parking near prohibited.

The driver of any vehicle other than one of official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or stop such vehicle within 500 feet of any fire apparatus which has stopped in answer to a fire alarm.

History: L. 1941, ch. 52, § 96; C. 1943, 57-7-173; L. 1975, ch. 207, § 51.

41-6-113. Driving over firehose.

No vehicle shall be driven over an unprotected hose of a fire department when laid down on any street, private road or driveway to be used at any fire or alarm of fire, without the consent of the fire department official in command.

History: L. 1941, ch. 52, § 97; C. 1943, 57-7-174; L. 1978, ch. 33, § 37.

41-6-114. Destructive or injurious materials on highways, parks, recreation areas, waterways or other public or private lands — Throwing lighted material from moving vehicle — Enforcement officers — Litter receptacles required.

(a) It shall be unlawful for any person to throw, deposit, or discard, or to permit to be dropped, thrown, deposited, or discarded upon any public road, highway, park, recreation area or other public or private land, or waterway, any glass bottle, glass, nails, tacks, wire, cans, barbed wire, boards, trash or garbage, paper or paper products, or any other substance which would or could mar or impair the scenic aspect or beauty of such land in the state of Utah whether under private, state, county, municipal, or federal ownership without the permission of the owner, or person having control or custody of the land.

(b) Any person who drops, throws, deposits, or discards, or permits to be dropped, thrown, deposited or discarded, upon any public road, highway, park, recreation area or other public or private land or waterway any destructive, injurious or unsightly material shall immediately remove the same or cause it to be removed and deposit the material in a receptacle designed to receive such material.

(c) Any person distributing commercial handbills, leaflets or other advertising shall take whatever measures are reasonably necessary to keep such material from littering public or private property or public roadways.

(d) Any person removing a wrecked or damaged vehicle from a public road, highway, park, recreation area or other public or private land shall remove any glass or other injurious substance dropped upon the road or highway or in the park, recreation area or other public or private land from such vehicle.

(e) It shall be unlawful to throw any lighted material from a moving vehicle.

(f) Any person transporting loose cargo by truck, trailer or other motor vehicle shall secure such cargo in such a reasonable manner as will prevent the cargo from littering or spilling on both public and private property or public roadways except as provided in Section 27-12-146.

(g) Any person in charge of a construction or demolition site shall take those steps as are reasonably necessary to prevent the accumulation of litter at the construction or demolition site.

(h) Officers of the Division of Wildlife Resources and Parks and Recreation, police officers of incorporated cities and towns, sheriffs and their deputies, deputy state fire wardens, state capitol security officers, and other officers of the state of Utah, within their jurisdiction shall enforce the provisions of this section. Each such officer is empowered to issue citations to any person violating any of the provisions of this section, and may serve and execute all warrants, citations and other process issued by any court in enforcing this section.

(i) Each operator of a park, campground, trailer park, drive-in restaurant, gasoline service station, shopping center, grocery store parking lot, tavern parking lot, parking lots of industrial firms, marina, boat launching area, boat moorage and fueling station, public and private pier, beach, and bathing area shall maintain sufficient litter receptacles on said premises to accommodate the litter that accumulates there.

(j) Cities and towns within their corporate limits and counties outside of incorporated cities and towns shall have power to enact local ordinances to effectuate and carry out each and every provision of this section.

History: L. 1941, ch. 52, § 98; C. 1943, § 1; 1967, ch. 90, § 1; 1975, ch. 205, § 1; 1979, 57-7-175; L. 1955, ch. 71, § 1; 1957, ch. 79, ch. 241, § 1.

41-6-114.1. Violation — Penalty.

Any person violating any of the provisions of Section 41-6-114 is guilty of a class B misdemeanor, and shall be fined not less than \$25 for each violation, provided that the sentencing judge may also impose as additional penalties the requirements that the offender shall devote at least one hour in cleaning up any litter caused by him and cleaning up any existing litter from a safe area designated by the sentencing judge.

History: C. 1953, 41-6-114.1, enacted by L. 1975, ch. 205, § 2; L. 1979, ch. 241, § 2; 1986, ch. 178, § 31.

Repeals and Enactments. — Laws 1975, ch. 205, § 2 repealed former § 41-6-114.1 (L. 1957, ch. 79, § 2), making violation of the act a misdemeanor, and enacted present § 41-6-114.1.

Amendment Notes. — The 1986 amendment inserted "is guilty of a class B misdemeanor, and," deleted "nor more than \$299" following "\$25," and substituted "him" for "such person."

Cross-References. — Penalty for misdemeanors, §§ 76-3-204, 76-3-301.

41-6-114.2. Warning signs.

The Department of Transportation shall place adequate warning signs notifying all persons using the public roads, highways, parks or recreation areas, of the provisions of this act, wherever they deem it proper within the state.

History: L. 1957, ch. 79, § 3; 1979, ch. 242, § 21.

Meaning of "this act". — The term "this

act", referred to in this section, first appeared in this section as enacted by Laws 1957, ch. 79, which appears as §§ 41-6-114 to 41-6-114.2.

41-6-115. School buses — Regulations regarding design and operation.

The Department of Transportation by and with the advice of the State Board of Education and the Department of Public Safety shall adopt and enforce regulations not inconsistent with this chapter to govern the design and operation of all school buses when owned and operated by any school district or privately owned and operated under contract with any school district, or privately owned for use by a private school, in this state, and such regulations shall by reference be made a part of any such contract with a school district or private school. Every school district or private school, its officers and employees, and every person employed under contract by a school district or private school shall be subject to said regulations.

History: C. 1953, 41-6-115, enacted by L. 1979, ch. 242, § 22.

Repeals and Enactments. — Laws 1979, ch. 242, § 22 repealed former § 41-6-115 (L.

1941, ch. 52, § 99; C. 1943, 57-7-176; L. 1957, ch. 78, § 5), relating to regulations regarding design and operation of school buses, and enacted present § 41-6-115.

Cross-References. — School bus, signs and light signals, duty to stop, driver, operation of signals, § 41-6-100.10.

School buses removed from service and put to nonschool use, repainting, § 41-7-4.

Standards and specifications for lighting and special warning devices on school buses, § 41-6-140.10.

COLLATERAL REFERENCES

C.J.S. — 79 C.J.S. Schools and School Districts § 480.

Key Numbers. — Schools and School Districts ⇨ 159½.

41-6-116. Violation of regulations — Penalty.

Any officer or employee of any school district who violates any of the regulations provided for in Section 41-6-115 or fails to include obligation to comply with said regulations in any contract executed by that person on behalf of a school district shall be guilty of misconduct and subject to removal from office or employment. Any person operating a school bus under contract with a school district who fails to comply with any said regulations shall be guilty of breach of contract and such contract shall be canceled after notice and hearing by the responsible officers of such school district.

History: L. 1941, ch. 52, § 100; C. 1943, 57-7-177; L. 1979, ch. 242, § 23.

41-6-116.10. Abandoned vehicles — Police officer removing — Report — Procedure if not reclaimed.

(a) No person shall abandon a vehicle upon any highway.

(b) No person shall abandon a vehicle upon any public or private property without the express or implied consent of the owner or person in lawful possession or control of the property.

(c) Any police officer who has reasonable grounds to believe that a vehicle has been abandoned may remove the vehicle or cause it to be removed, at the expense of the owner, to the nearest state impound yard or if none, to a garage or other place of safety and shall immediately send a written report of such removal to the State Tax Commission, Motor Vehicle Division, which report shall include a description of the vehicle, the date, time and place of removal, the grounds for removal, and the name of the garage or place where the vehicle is stored. Upon receipt of a report as provided, the State Tax Commission, Motor Vehicle Division shall attempt to notify the registered owner of the vehicle, or any lien holder, giving the grounds for removal and the name of the garage or place where the vehicle is stored. If the vehicle is not registered in this state, the state tax commission, motor vehicle division shall make a reasonable effort to notify the registered owner or any lien holder of the removal and the location of the vehicle. The State Tax Commission, Motor Vehicle Division shall forward a copy of the notice to the owner or person in charge of the garage or place where the vehicle is stored.

(d) For the purposes of this section, a vehicle shall be presumed to be abandoned if it is left unattended on a highway for a period in excess of 24 hours or on any public or private property without express or implied consent of the owner or person in lawful possession or control of the property for a period in excess of seven days.

(e) In any case where the motor number, manufacturer's number or identification mark of the abandoned vehicle has been defaced, altered or obliterated, the vehicle shall not be released or sold until the original motor number, manufacturer's number or identification mark has been replaced, or until a new number assigned by the motor vehicle division has been stamped thereon.

(f) If the abandoned vehicle is not reclaimed by the registered owner or any lien holder within 30 days after actual notice or reasonable attempt to give notice to the registered owner or any lien holder, the provisions of Sections 41-1-79.5 and 41-1-116 shall apply, and the abandoned vehicle may be sold as provided in Section 41-1-135.

History: C. 1953, 41-6-116.10, enacted by L. 1975, ch. 207, § 52; L. 1979, ch. 155, § 1.

NOTES TO DECISIONS

Cited in *State v. Rice*, 717 P.2d 695 (Utah 1986).

ARTICLE 16 EQUIPMENT

41-6-117. Operation of unsafe or improperly equipped vehicles on public highways — Exceptions.

(1) It is a misdemeanor for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with lamps and other equipment in proper condition and adjustment as required in this chapter or in rules issued by the department, or which is equipped in any manner in violation of this chapter or those rules or for any person to do any act forbidden or fail to perform any act required under this chapter or those rules.

(2) Nothing in this chapter or the rules of the department prohibit equipment required by the United States Department of Transportation nor the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter or those rules.

(3) The provisions of this chapter and rules of the department, with respect to equipment required on vehicles, do not apply to implements of husbandry, road machinery, road rollers, or farm tractors, except as specifically made applicable.

(4) The provisions of this chapter and rules of the department with respect to equipment required on vehicles do not apply to motorcycles or motor-driven cycles, except as specifically made applicable.

(5) The provisions of this chapter and rules of the department do not apply to vehicles moved solely by human power, except as specifically made applicable.

(6) The provisions of this chapter and rules of the department with respect to equipment required on vehicles do not apply to:

- (a) Off-highway vehicles registered under Section 41-22-3 either:
 - (i) on a highway designated as open for off-highway vehicle use; or
 - (ii) in the manner prescribed by Section 41-22-10.3; or
- (b) Off-highway implements of husbandry when operated in the manner prescribed by Subsections 41-22-5.5(3) through (5).
- (7) The vehicles referred to in Subsection (6) are subject to the equipment requirements of Chapter 22, Title 41, and rules promulgated thereunder.
- (8) A federal motor vehicle safety standard which conflicts with a provision of this chapter supersedes that provision as to any vehicle in compliance with the federal standard. The department shall report any such conflict to the appropriate committees or officials of the Legislature and may adopt a rule to replace the superseded provisions.

History: L. 1941, ch. 52, § 101; C. 1943, 57-7-178; L. 1949, ch. 65, § 1; 1955, ch. 71, § 1; 1979, ch. 242, § 24; 1987, ch. 162, § 27.

Amendment Notes. — The 1987 amendment redesignated the subsections in this section, substituted "rule" for "regulation" throughout the section, added the present Subsections (6) and (7), and made minor changes in phraseology and punctuation throughout the section.

Cross-References. — Farm tractors and equipment, lighting on, § 41-6-130.

Highway construction and maintenance vehicles, lighting on, § 41-6-140.20.

Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

Vehicle equipment safety compact, § 41-15-1 et seq.

COLLATERAL REFERENCES

Am. Jur. 2d. — 7A Am. Jur. 2d Automobiles and Highway Traffic § 185 et seq., § 779 et seq.

C.J.S. — 60A C.J.S. Motor Vehicles § 260.

A.L.R. — Effect of violation of safety equipment statute as establishing negligence in automobile accident litigation, 38 A.L.R.3d 530.

Key Numbers. — Automobiles ⇌ 148.

41-6-117.5. Permit to operate vehicle in violation of equipment regulations.

(a) The department may issue a permit which will allow operation of a vehicle in violation of the provisions of this chapter or in violation of departmental regulations.

(b) The permit shall be carried by the driver or in the vehicle and shall be displayed upon demand of a magistrate or police officer.

(c) In issuing such permits, the department may limit the time, manner or duration of operation and may otherwise prescribe conditions of operation that are necessary to protect the safety of highway users or efficient movement of traffic. Said conditions shall be stated on the permit and a person shall not violate them.

History: C. 1953, 41-6-117.5, enacted by L. 1979, ch. 242, § 25.

41-6-118. Lights and illuminating devices — Duty to display — Time.

(a) Every vehicle upon a highway within this state at any time from a half hour after sunset to a half hour before sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 1,000 feet ahead shall display lighted lamps and other lamps and illuminating devices as respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles, and further that stop lights, turn signals and other signaling devices shall be lighted as prescribed for the use of such devices.

(b) Whenever requirement is hereinafter declared as to distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible, said provisions shall apply during the times stated in Subsection (a) in respect to a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions, unless a different time or condition is expressly stated.

(c) Whenever requirement is hereinafter declared as to the mounted height of lamps or devices it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load.

History: L. 1941, ch. 52, § 102; C. 1943, 57-7-179; L. 1949, ch. 65, § 1; 1957, ch. 78, § 6; 1979, ch. 242, § 26.

NOTES TO DECISIONS

Negligence.

It is negligence as a matter of law to drive a car at such a speed that it cannot be stopped within a distance at which objects may be seen. *Nikoleropoulos v. Ramsey*, 61 Utah 465, 214 P. 304 (1923); *Dalley v. Mid-Western Dairy Prods. Co.*, 80 Utah 331, 15 P.2d 309 (1932). Doubt as to the correctness of this holding has been expressed in a number of cases; the rule has been modified by several cases. Among these cases are: *Hansen v. Clyde*, 89 Utah 31, 56 P.2d 1366 (1936); *Nielsen v. Watanabe*, 90 Utah 401, 62 P.2d 117 (1936); *Moss v. Christensen-Gardner*, 98 Utah 253, 98 P.2d 363 (1940); *Bullock v. Luke*, 98 Utah 501, 511, 98 P.2d 350 (1940); *Trimble v. Union Pac. Stages*, 105 Utah 457, 142 P.2d 674 (1943); *Wright v. Maynard*, 120 Utah 504, 235 P.2d

916 (1951); *Hodges v. Waite*, 2 Utah 2d 152, 270 P.2d 461 (1954); *Takataro Shiba v. Weiss*, 3 Utah 2d 256, 282 P.2d 341 (1955); *Fretz v. Anderson*, 5 Utah 2d 290, 300 P.2d 642 (1956); *Hirschbach v. Dubuque Packing Co.*, 7 Utah 2d 7, 316 P.2d 319 (1957); *Durrant v. Pelton*, 16 Utah 2d 7, 394 P.2d 879 (1964).

Motorist who observed taillights on truck parked on highway in time to have stopped and avoided collision, but did not do so because he thought the truck was in motion and moving in the same direction as he was, was negligent as a matter of law; fact that the truck's lighted taillights might have misled him into believing that the truck was moving did not make question of negligence one for jury. *Hirschbach v. Dubuque Packing Co.*, 7 Utah 2d 7, 316 P.2d 319 (1957).

COLLATERAL REFERENCES

Am. Jur. 2d. — 7A Am. Jur. 2d Automobiles and Highway Traffic § 188 et seq.

C.J.S. — 60A C.J.S. Motor Vehicles § 263.

A.L.R. — Liability or recovery of automobile negligence action arising out of collision or

upset as affected by operation of vehicle without front lights, or with improper front lights, 62 A.L.R.3d 560.

Liability or recovery in automobile negligence action arising out of collision or upset as

affected by operation of vehicle without or with improper taillights or rear reflectors, 62 A.L.R.3d 771.

Liability or recovery in automobile negligence action arising out of collision or upset as affected by operation of vehicle without, or with improper, clearance, load, or similar auxiliary lights, 62 A.L.R.3d 844.

Liability or recovery in automobile negli-

gence action as affected by motor vehicle's being driven or parked without dimming lights, 63 A.L.R.3d 824.

Liability or recovery in automobile negligence action as affected by driver's being blinded by lights of motor vehicle, 64 A.L.R.3d 760.

Key Numbers. — Automobiles ⇌ 149.

41-6-119. Motor vehicle head lamp requirements.

Every motor vehicle shall be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in the regulations promulgated by the department.

History: L. 1941, ch. 52, § 103; C. 1943, 57-7-180; L. 1949, ch. 65, § 1; 1957, ch. 78, § 7; 1967, ch. 91, § 1; 1979, ch. 242, § 27.

41-6-120. Tail lamps — Illumination of rear registration plate — Reflectors.

(a) Every motor vehicle, trailer, semitrailer and pole trailer, and any other vehicle which is being drawn at the end of a combination of vehicles, shall be equipped with at least two tail lamps mounted on the rear, which shall comply with regulations issued by the department; provided, the department may by regulation allow one tail lamp on any vehicle equipped with only one when it was made.

(b) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate. Such lamp shall comply with requirements of the department.

(c) Every motor vehicle, trailer, semitrailer and pole trailer shall carry on the rear, either as a part of the tail lamps or separately, two or more red reflectors meeting the requirements of the department.

History: C. 1953, 41-6-120, enacted by L. 1979, ch. 242, § 28.

Repeals and Enactments. — Laws 1979, ch. 242, § 28 repealed former § 41-6-120 (L. 1941, ch. 52, § 104; C. 1943, 57-7-181; L. 1949,

ch. 65, § 1; 1955, ch. 71, § 1), relating to tail lamps and illumination of rear registration plate, and enacted present § 41-6-120.

Cross-References. — Lamps on parked vehicles, § 41-6-129.

41-6-121. Repealed.

Repeals. — Section 41-6-121 (L. 1941, ch. 52, § 105; C. 1943, 57-7-182; L. 1949, ch. 65, § 1; 1955, ch. 71, § 1), relating to the use of

reflectors on motor vehicles, was repealed by Laws 1979, ch. 242, § 74.

41-6-121.10. Stop lamps required — Supplemental stop lamps — Turn signals.

(a) Every motor vehicle, trailer, semitrailer, and pole trailer shall be equipped with two or more stop lamps meeting the requirements of the department, provided the department may by rule allow one stop lamp on any vehicle equipped with only one when it was made.

(b) Supplemental stop lamps shall emit a red light and shall be mounted not lower than 15 inches above the roadway. A supplemental stop lamp may be mounted on the rear of a vehicle, if it is mounted on the vertical center line of the vehicle and is constructed and mounted so that no light emitted from the device, either direct or reflected, is visible to the driver. Size, design, and candle power shall conform to federal standards regulating stop lights.

(c) Every motor vehicle, trailer, semitrailer, and pole trailer shall be equipped with electric flashing turn signal lamps meeting the requirements of the department, except that passenger cars and trucks less than 80 inches in width and manufactured or assembled prior to January 1, 1953, need not be equipped with electric turn signal lamps.

History: C. 1953, 41-6-121.10, enacted by L. 1979, ch. 242, § 29; 1986, ch. 63, § 1.

Repeals and Enactments. — Laws 1979, ch. 242, § 29 repealed former § 41-6-121.10 (L. 1955, ch. 71, § 1), relating to stop lamps and turn signals, and enacted present § 41-6-121.10.

Amendment Notes. — The 1986 amend-

ment redesignated former Subsection (b) as present Subsection (c); added present Subsection (b); in Subsection (a), substituted "rule" for "regulation" and made several minor stylistic changes; and, in Subsection (c), added a comma following "semitrailer" and "department" and substituted "and" for a comma following "width."

41-6-122. Additional lamps and reflectors.

The department by regulation may require trucks, buses, motor homes, motor vehicles with truck-campers, trailers, semitrailers and pole trailers to have additional lamps and reflectors.

History: C. 1953, 41-6-122, enacted by L. 1979, ch. 242, § 30.

Repeals and Enactments. — Laws 1979, ch. 242, § 30 repealed former § 41-6-122 (L.

1941, ch. 52, § 106; C. 1943, 57-7-183), relating to clearance lamps or reflectors, and enacted present § 41-6-122.

41-6-123 to 41-6-126. Repealed.

Repeals. — Sections 41-6-123, 41-6-124, 41-6-124.5, 41-6-125, 41-6-126 (L. 1941, ch. 52, §§ 107 to 110; C. 1943, 57-7-184 to 57-17-187; L. 1949, ch. 65, § 1; 1955, ch. 71, § 1; 1961, ch. 86, § 1; 1975, ch. 206, § 1), relating to lamps,

lights and reflectors, color of light displayed, acceleration and deceleration lighting system, mounting reflectors and clearance lamps and size were repealed by Laws 1979, ch. 242, § 74.

41-6-127. Vehicles operated in combination.

Whenever motor and other vehicles are operated in combination during the time that lights are required, any lamp need not be lighted which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination.

History: C. 1953, 41-6-127, enacted by L. 1979, ch. 242, § 31.

Repeals and Enactments. — Laws 1979, ch. 242, § 31 repealed former § 41-6-127 (L.

1941, ch. 52, § 112; C. 1943, 57-7-189), relating to vehicles operated in combination, and enacted present § 41-6-127.

COLLATERAL REFERENCES

C.J.S. — 60A C.J.S. Motor Vehicles § 263.

Key Numbers. — Automobiles ⇌ 149.

41-6-128. Load extending beyond rear of vehicle — Duty to display lamps and reflectors or flag.

Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of such vehicle there shall be displayed at the extreme rear end of the load, at the times specified in Section 41-6-118, two red lamps, two red reflectors located so as to indicate maximum width, and on each side one red lamp located so as to indicate maximum overhang. There shall be displayed at all other times on any vehicle having a load which extends beyond its sides or more than four feet beyond its rear, red flags, not less than 12 inches square, marking the extremities of such load, at each point where a lamp would otherwise be required by this section. Lamps and reflectors required in this section shall comply with requirements of the department.

History: C. 1953, 41-6-128, enacted by L. 1979, ch. 242, § 32.

Repeals and Enactments. — Laws 1979, ch. 242, § 32 repealed former § 41-6-128 (L. 1941, ch. 52, § 113; C. 1943, 57-7-190; L. 1949, ch. 65, § 1), relating to the lights or flags re-

quired on vehicles with loads extending beyond the rear of the vehicle, and enacted present § 41-6-128.

Cross-References. — Size and weight limitations, § 27-12-152.

COLLATERAL REFERENCES

C.J.S. — 60A C.J.S. Motor Vehicles § 263.

A.L.R. — Load projecting beyond rear or side of motor vehicle or trailer, liability for in-

jury or damage caused by collision with portion of, 21 A.L.R.3d 371.

Key Numbers. — Automobiles ⇌ 149.

41-6-129. Parking lamps required — Use when vehicle parked at night — Head lamps dimmed.

(a) Every vehicle shall be equipped with one or more parking lamps which shall comply with requirements of the department.

(b) Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half hour after sunset and a half hour before sunrise and in the event there is sufficient light to reveal persons and vehicles within a distance of 1,000 feet upon such street or highway, no lights need be displayed upon such parked vehicle.

(c) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half hour after sunset and a half hour before sunrise and there is insufficient light to reveal any person or object within a distance of 1,000 feet upon such highway, such vehicle so parked or stopped shall display parking lamps meeting the requirements of the department.

(d) Any lighted head lamps upon a parked vehicle shall be depressed or dimmed.

History: C. 1953, 41-6-129, enacted by L. 1979, ch. 242, § 33.

Repeals and Enactments. — Laws 1979, ch. 242, § 33 repealed former § 41-6-129 (L. 1941, ch. 52, § 114; C. 1943, 57-7-191; L. 1949,

ch. 65, § 1; 1955, ch. 71, § 1), relating to display of lights on a parked vehicle, and enacted present § 41-6-129.

Cross-References. — Warning signal around disabled vehicle, § 41-6-153.

NOTES TO DECISIONS

Injured or dead operator.

Where there is evidence that the operator of an overturned vehicle was unconscious, seriously injured, or dead immediately after the car came to rest, the operator cannot be

charged with the duties of providing lights for the protection of other vehicles on the highway. *Fretz v. Anderson*, 5 Utah 2d 290, 300 P.2d 642 (1956).

COLLATERAL REFERENCES

Am. Jur. 2d. — 7A Am. Jur. 2d Automobiles and Highway Traffic § 191.

C.J.S. — 60A C.J.S. Motor Vehicles § 335.

A.L.R. — Liability of motorist colliding with person engaged about stalled or disabled vehicle on or near highway, 27 A.L.R.3d 12.

Liability or recovery in automobile negligence action as affected by absence or insuffi-

ciency of lights on parked or standing motor vehicle, 61 A.L.R.3d 13.

Liability or recovery in automobile negligence action as affected by motor vehicle's being driven or parked without dimming lights, 63 A.L.R.3d 824.

Key Numbers. — Automobiles ⇨ 173(5).

41-6-130. Farm tractors and equipment — Lamps and reflectors — Slow-moving vehicle emblem.

(a) Every farm tractor and every self-propelled implement of husbandry manufactured or assembled after January 1, 1970, shall be equipped with vehicular hazard warning lights of a type described in Section 41-6-133, visible from a distance of not less than 1,000 feet to the front and rear in normal sunlight, which shall be displayed whenever any such vehicle is operated upon a highway.

(b) Every farm tractor and every self-propelled implement of husbandry manufactured or assembled after January 1, 1970, shall at all times, and every other such motor vehicle shall at all times mentioned in Section 41-6-118, be equipped with lamps and reflectors as follows:

(1) At least two head lamps meeting the requirements of the department.

(2) At least one red lamp visible when lighted from a distance of not less than 1,000 feet to the rear mounted as far to the left of the center of the vehicle as practicable.

(3) At least two red reflectors visible from all distances within 600 feet to 100 feet to the rear when directly in front of lawful lower beams of head lamps.

(c) On every combination of farm tractor and towed farm equipment or towed implement of husbandry, the farm tractor shall be equipped as required in Subsections (a) and (b), and the towed unit shall at all times mentioned in Section 41-6-118 be equipped with lamps and reflectors as follows:

(1) If the towed unit or its load extends more than four feet to the rear of the tractor or obscures any light thereon, said unit shall be equipped on the rear with at least two red reflectors visible from all distances within 600 feet to 100 feet to the rear when directly in front of lawful lower beams of head lamps.

(2) If the towed unit of such combination extends more than four feet to the left of the center line of the tractor, said unit shall be equipped on the front with an amber reflector visible from all distances within 600 feet to 100 feet to the front when directly in front of lawful lower beams of head lamps. This reflector shall be so positioned to indicate, as nearly as practicable, the extreme left projection of the towed unit.

(3) If the towed unit or its load obscures either of the vehicle hazard warning lights on the tractor, the towed unit shall be equipped with vehicle hazard warning lights described in Subsection (a).

(d) The two red reflectors required in the foregoing subsections shall be so positioned as to show from the rear, as nearly as practicable, the extreme width of the vehicle or combination carrying them. Provided that all other requirements are met, reflective tape or paint may be used in lieu of the reflectors required by Subsection (c).

(e) After July 1, 1979, every farm tractor and every self-propelled implement of husbandry designed for operation at speeds not in excess of 25 miles per hour shall at all times be equipped with a slow moving vehicle emblem mounted on the rear except as provided in Subsection (f).

(f) After July 1, 1979, every combination of farm tractor described in Subsection (e) and towed farm equipment or towed implement of husbandry shall at all times be equipped with a slow moving vehicle emblem as follows:

(1) Where the towed unit or any load thereon obscures the slow moving vehicle emblem on the farm tractor, the towed unit shall be equipped with a slow moving vehicle emblem. In such cases, the towing vehicle need not display the emblem.

(2) Where the slow moving vehicle emblem on the farm tractor unit is not obscured by the towed unit or its load, then either or both may be equipped with the required emblem but it shall be sufficient if either has it.

(g) The emblem required by Subsections (e) and (f), and its mounting and position on the vehicle, shall comply with current standards and specifications of the American Society of Agricultural Engineers as approved by the commissioner.

(h) No person shall use the slow-moving vehicle emblem except as required in this section and in Section 41-6-130.5 nor display the emblem on a vehicle traveling at a speed in excess of 25 miles per hour.

History: C. 1953, 41-6-130, enacted by L. 1979, ch. 242, § 34.

Repeals and Enactments. — Laws 1979, ch. 242, § 34 repealed former § 41-6-130 (L.

1955, ch. 71, § 1), relating to lamps on farm tractors and equipment, and enacted present § 41-6-130.

COLLATERAL REFERENCES

C.J.S. — 60A C.J.S. Motor Vehicles § 263.

Key Numbers. — Automobiles ⇌ 149.

41-6-130.5. Lamps and reflectors on vehicles not otherwise specified — Slow-moving vehicle emblems on animal-drawn vehicles.

(a) Every vehicle, including animal-drawn vehicles and vehicles referred to in Section 41-6-117, not specifically required by the provisions of other sections in this chapter to be equipped with lamps or other lighting devices, shall at all times specified in Section 41-6-118 be equipped with at least one lamp displaying a white light visible from a distance of not less than 1,000 feet to the front of said vehicle, and shall also be equipped with two lamps displaying red light visible from a distance of not less than 1,000 feet to the rear of said vehicle, or as an alternative, one lamp displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 to 100 feet to the rear when illuminated by the lawful lower beams of head lamps.

(b) After July 1, 1979, every animal-drawn vehicle shall at all times be equipped with a slow-moving vehicle emblem complying with Section 41-6-130.

History: C. 1953, 41-6-130.5, enacted by L. 1979, ch. 242, § 35.

41-6-131. Spot lamps.

Any motor vehicle may be equipped with not to exceed two spot lamps and every lighted spot lamp shall be so aimed and used that no part of the high intensity portion of the beam will strike the windshield, or any windows, mirror, or occupant of another vehicle in use. This section does not apply to spot lamps on authorized emergency vehicles.

History: C. 1953, 41-6-131, enacted by L. 1979, ch. 242, § 36.

Repeals and Enactments. — Laws 1979, ch. 242, § 36 repealed former § 41-6-131 (L.

1941, ch. 52, § 116; C. 1943, 57-7-193; L. 1949, ch. 65, § 1; 1955, ch. 71, § 1; 1957, ch. 78, § 8), relating to spot and fog lamps, and enacted present § 41-6-131.

41-6-132. Emergency vehicles — Flashing lights — Rotating lights.

(a) Every authorized emergency vehicle shall, in addition to any other equipment required by this chapter, be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level, and these lights shall have sufficient intensity to be visible at 500 feet in normal sunlight.

(b) A police vehicle when used as an authorized emergency vehicle may but need not be equipped with alternately flashing red lights specified herein.

(c) In addition to the alternately flashing lighting described in Subsection (a), any authorized emergency vehicle may be equipped with a lighting device displaying rotating beams of red light, of red and white light or red and blue light.

History: C. 1953, 41-6-132, enacted by L. 1979, ch. 242, § 37.

1955, ch. 71, § 1; 1957, ch. 78, § 9), relating to turn signal lights, and enacted present § 41-6-132.

Repeals and Enactments. — Laws 1979, ch. 242, § 37 repealed former § 41-6-132 (L.

41-6-133. Warning lamps.

(a) Any vehicle may be equipped with lamps for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing.

(b) After July 1, 1979, every bus, truck, truck-tractor, trailer, semitrailer or pole trailer 80 inches or more in over-all width or 30 feet or more in over-all length shall be equipped with lamps meeting the requirements of this section.

(c) Lamps allowed by this section shall comply with regulations issued by the department.

History: C. 1953, 41-6-133, enacted by L. 1979, ch. 242, § 38.

ch. 65, § 1; 1955, ch. 71, § 1), relating to side cowl, fender, running board, back-up lamps, and warning lamps, and enacted present § 41-6-133.

Repeals and Enactments. — Laws 1979, ch. 242, § 38 repealed former § 41-6-133 (L. 1941, ch. 52, § 118; C. 1943, 57-7-195; L. 1949,

41-6-133.5. Back-up lamps — Side marker lamps.

(a) Any motor vehicle may be equipped with one or more back-up lamps either separately or in combination with other lamps, but any such back-up lamp or lamps shall not be lighted when the motor vehicle is in forward motion.

(b) Any vehicle may be equipped with one or more side marker lamps and any such lamp may be flashed in conjunction with turn or vehicular hazard warning signals.

(c) Lamps allowed by this section shall comply with regulations issued by the department.

History: C. 1953, 41-6-133.5, enacted by L. 1979, ch. 242, § 39.

41-6-134. Repealed.

Repeals. — Section 41-6-134 (L. 1955, ch. 71, § 1), relating to head lamps and auxiliary

lamps, was repealed by Laws 1979, ch. 242, § 74.

41-6-135. Lamp required for operation of vehicle on roadway or adjacent shoulder — Dimming of lights.

(a) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in Section 41-6-118, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

(1) Whenever the driver of a vehicle approaches an oncoming vehicle within 500 feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light or composite beam, shall be deemed to avoid glare at all times, regardless of road contour and loading.

(2) Whenever the driver of a vehicle approaches another vehicle from the rear, within 300 feet, such driver shall use a distribution of light other than the uppermost distribution of light.

History: C. 1953, 41-6-135, enacted by L. 1979, ch. 242, § 40.

ch. 242, § 40 repealed former § 41-6-135 (L. 1955, ch. 71, § 1), relating to dimming of lights, and enacted present § 41-6-135.

Repeals and Enactments. — Laws 1979,

COLLATERAL REFERENCES

A.L.R. — Liability or recovery in automobile negligence action as affected by motor ve-

hicle's being driven or parked without dimming lights, 63 A.L.R.3d 824.

41-6-135.5. Head lamps on farm tractors — Motor vehicles sold prior to certain date.

Head lamp systems which provide only a single distribution of light shall be permitted on all farm tractors regardless of date of manufacture, and on other motor vehicles manufactured and sold prior to July 1, 1980, if they comply with requirements of the department.

History: C. 1953, 41-6-135.5, enacted by L. 1979, ch. 242, § 41.

41-6-136, 41-6-137. Repealed.

Repeals. — Sections 41-6-136 and 41-6-137 (L. 1941, ch. 52, § 121; C. 1943, 57-7-198; C. 1943, 57-7-198.1, enacted by L. 1949, ch. 65, § 1), relating to head lamps arranged to pro-

vide a single distribution of light, and to lamps on motorcycles, were repealed by Laws 1979, ch. 242, § 74.

41-6-138. Requirements for slow-moving vehicles.

Any motor vehicle may be operated under the conditions specified in Section 41-6-118 when equipped with two lighted lamps upon the front thereof capable of revealing persons and vehicles 100 feet ahead provided, however, that at no time shall it be operated at a speed in excess of 20 miles per hour.

History: C. 1953, 41-6-138, enacted by L. 1979, ch. 242, § 42.

Repeals and Enactments. — Laws 1979, ch. 242, § 42 repealed former § 41-6-138 (L.

1941, ch. 52, § 122; C. 1943, 57-7-199), relating to lighting requirements for slow-moving vehicles, and enacted present § 41-6-138.

COLLATERAL REFERENCES

C.J.S. — 60A C.J.S. Motor Vehicles § 263.

Key Numbers. — Automobiles ⇌ 149.

41-6-138.10. Repealed.

Repeals. — Section 41-6-138.10 (L. 1973, ch. 83, § 1), relating to slow-moving vehicle em-

blems, was repealed by Laws 1979, ch. 242, § 74.

41-6-139. Number of front lamps required and permitted.

(a) At all times specified in Section 41-6-118, at least two lighted head lamps shall be displayed, one on each side at the front of every motor vehicle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles.

(b) Whenever a motor vehicle equipped with head lamps as herein required is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of an intensity greater than 300 candle power, not more than a total of four of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway.

History: L. 1941, ch. 52, § 123; C. 1943, 57-7-200; L. 1949, ch. 65, § 1; 1979, ch. 242, § 43.

COLLATERAL REFERENCES

A.L.R. — Liability or recovery of automobile negligence action arising out of collision or upset as affected by operation of vehicle with-

out front lights, or with improper front lights, 62 A.L.R.3d 560.

41-6-140. High intensity beams — Red lights — Flashing lights — Color of rear lights and reflectors.

(a) During the times specified in Section 41-6-118, any lighted lamp or illuminating device upon a motor vehicle, other than head lamps, spot lamps, auxiliary lamps, flashing turn signals, vehicular hazard warning lamps and school bus warning lamps, which projects a beam of light of an intensity greater than 300 candlepower shall be so directed that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(b) Except as required in Sections 41-6-132 and 41-6-140.10, no person shall drive or move any vehicle or equipment upon any highway with any lamp or device capable of displaying a red light visible from directly in front of the center thereof.

(c) Flashing lights are prohibited except as authorized or required in Sections 41-6-121.10, 41-6-130, 41-6-132, 41-6-133, 41-6-140.10 and 41-6-140.20.

(d) The alternately flashing lights described in Sections 41-6-132 and 41-6-140.10 shall not be used on any vehicle other than a school bus or an authorized emergency vehicle. The rotating light described in Section 41-6-132 shall not be used on any vehicle other than an authorized emergency vehicle.

(e) All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stop light or other signal device, which may be red or yellow, and except that the light illuminating the license plate shall be white and the light emitted by a back-up lamp shall be white.

History: C. 1953, 41-6-140, enacted by L. 1979, ch. 242, § 44.

Repeals and Enactments. — Laws 1979, ch. 242, § 44 repealed former § 41-6-140 (L. 1955, ch. 71, § 1; 1961, ch. 86, § 1; 1967, ch.

92, § 1; 1973, ch. 84, § 1), relating to high intensity beams, red lights, and flashing, rotating, revolving, or oscillating white lights, and enacted present § 41-6-140.

41-6-140.10. Standards and specifications for lighting and special warning devices on school buses.

(a) Every school bus shall, in addition to any other equipment and distinctive markings required by this chapter, be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall display to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level, and these lights shall be visible at 500 feet in normal sunlight.

(b) Any school bus shall, in addition to the lights required by Subsection (a), be equipped with yellow signal lamps mounted near each of the four red lamps and at the same level but closer to the vertical centerline of the bus, which shall display two alternately flashing yellow lights to the front and two alternately flashing yellow lights to the rear, and these lights shall be visible at 500 feet in normal sunlight. These lights shall be displayed by the school bus driver at least 100 feet, but not more than 500 feet, before every stop at which the alternately flashing red lights required by Subsection (a) will be actuated.

(c) The department is authorized to adopt standards and specifications applicable to lighting equipment on and special warning devices to be carried by school buses consistent with the provisions of this chapter, but supplemental thereto. Such standards and specifications shall correlate with and so far as possible conform to the specifications then current as approved by the Society of Automotive Engineers.

History: C. 1953, 41-6-140.10, enacted by L. 1979, ch. 242, § 45.

Repeals and Enactments. — Laws 1979, ch. 242, § 45 repealed former § 41-6-140.10 (L. 1955, ch. 71, § 1; 1961, ch. 86, § 1), relating to lights and special warning devices on school buses, and enacted present § 41-6-140.10.

Cross-References. — Regulations regard-

ing design and operation of school buses, § 41-6-115.

School bus, signs and light signals, duty to stop, driver, operation of signals, § 41-6-100.10.

School buses removed from service and put to nonschool use, repainting, § 41-7-4.

41-6-140.20. Highway construction and maintenance vehicles — Transportation department to adopt rules for lighting.

(a) The Department of Transportation shall adopt specifications and rules governing the design and use of special flashing lights on vehicles engaged in highway construction or maintenance operations.

(b) The driver of any such vehicle shall comply with rules adopted under this section.

History: C. 1953, 41-6-140.20, enacted by L. 1979, ch. 242, § 46.

Repeals and Enactments. — Laws 1979, ch. 242, § 46 repealed former § 41-6-140.20 (L. 1955, ch. 71, § 1; 1961, ch. 86, § 1), relating to

the road commission's adoption of standards for lights on snow removal equipment and other work vehicles, and enacted present § 41-6-140.20.

41-6-141. Sale or use of unapproved lighting equipment or devices prohibited.

(a) On and after July 1, 1979, no person shall have for sale, sell or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, semitrailer, or pole trailer or use upon any such vehicle any head lamp, auxiliary, or fog lamp, rear lamp, signal lamp or reflector, which reflector is required hereunder, or parts of any of the foregoing which tend to change the original design or performance, unless of a type which has been submitted to the commissioner and approved by him. The foregoing provision of this section shall not apply to equipment in actual use when this section is adopted or replacement parts therefor.

(b) No person shall have for sale, sell or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, semitrailer or pole trailer any lamp or device mentioned in this section which has been approved by the commissioner unless such lamp or device bears thereon the trademark or name under which it is approved so as to be legible when installed.

(c) No person shall use upon any motor vehicle, trailer, semitrailer or pole trailer any lamps mentioned in this section unless said lamps are mounted, adjusted and aimed in accordance with instructions of the commissioner.

History: C. 1953, 41-6-141, enacted by L. 1979, ch. 242, § 47.

Repeals and Enactments. — Laws 1979, ch. 242, § 47 repealed former § 41-6-141 (L.

1941, ch. 52, § 125; C. 1943, 57-7-202; L. 1955, ch. 71, § 1; 1975, ch. 207, § 53), relating to the sale or use of unapproved lighting equipment or devices, and enacted present § 41-6-141.

COLLATERAL REFERENCES

A.L.R. — Liability or recovery of automobile negligence action arising out of collision or upset as affected by operation of vehicle with-

out front lights, or with improper front lights, 62 A.L.R.3d 560.

41-6-141.5. Sale of unapproved lighting and other equipment prohibited.

(a) A person shall not sell or offer for sale any lamp, reflector, hydraulic brake fluid, seat belt, safety glass, emergency disablement warning device, studded tire, motorcycle helmet, eye protection device for motorists, or red rear bicycle reflector unless and until it has been approved by the department.

(b) A person shall not sell or offer for sale any item of equipment for which a standard has been adopted under Section 41-6-142 unless and until it has been approved by the department.

History: C. 1953, 41-6-141.5, enacted by L. 1979, ch. 242, § 48.

41-6-142. Department to adopt standards for lights and other equipment — Compliance with federal standards — Trademark or brand name.

(a) The department shall adopt standards for lamps, reflectors, hydraulic brake fluids, seat belts, safety glass, emergency disablement warning devices, studded tires, motorcyclist helmets, eye protection devices and red rear bicycle reflectors.

(b) The department may adopt standards for safety equipment that must comply with standards of the United States Department of Transportation.

(c) All standards adopted under Subsections (a) and (b) shall conform, insofar as possible, with standards issued by the United States Department of Transportation and other federal agencies. If no federal standard is applicable, standards adopted by the department may conform with standards issued or endorsed by any recognized organization or agency such as, but not limited to, the Vehicle Equipment Safety Commission, American National Standards Institute and Society of Automotive Engineers; provided, however, that where any such standards adopted by the department either prohibit or require the sale or use of any equipment, device, or system, not prohibited or required under any federal standard, such standards shall only be adopted to abate a proven safety hazard caused by the use or lack of such equipment, device, or system, on vehicles operated within the state of Utah, and shall, insofar as possible, be consistent with requirements adopted by other states.

(d) The department may adopt standards by reference provided the department makes copies of the standards available to any person requesting them.

(e) Any equipment described in [Section] 41-6-141.5 or any package containing the equipment shall bear the manufacturer's trademark or brand name unless it complies with identification requirements of the United States Department of Transportation or other federal agencies.

History: C. 1953, 41-6-142, enacted by L. 1979, ch. 242, § 49.

Repeals and Enactments. — Laws 1979, ch. 242, § 49 repealed former § 41-6-142 (L. 1941, ch. 52, § 126; C. 1943, 57-7-203; L. 1955,

ch. 71, § 1; 1967, ch. 93, § 1), relating to the approval of lighting devices by the department, and standards and specifications for such devices, and enacted present § 41-6-142.

41-6-143. Departmental approval of lighting devices or safety equipment.

(a) The department is hereby required to approve or disapprove any lighting device or other safety equipment, component or assembly of a type for which approval is specifically required in this article within a reasonable time after such approval has been requested.

(b) The department shall establish the procedure to be followed when request for approval of any lighting device or other safety equipment, component or assembly is submitted under this section. The procedure may provide for submission of such device, component or assembly to the American Association of Motor Vehicle Administrators as the agent of the commissioner and for the issuance of an approval certificate by the association in the name of the commissioner in lieu of submission of the device, component or assembly to the commissioner. Approval issued by the association shall have the same force and effect as if it has been issued by the commissioner.

(c) The commissioner shall maintain and publish lists of all devices, components or assemblies which have been approved by him.

(d) Approvals shall remain valid unless revoked under Section 41-6-143.5 or unless the commissioner requires them to be renewed under regulations issued by him.

History: C. 1953, 41-6-143, enacted by L. 1979, ch. 242, § 50.

Repeals and Enactments. — Laws 1979, ch. 242, § 50 repealed former § 41-6-143 (L. 1941, ch. 52, § 127; C. 1943, 57-7-204; L. 1975,

ch. 207, § 55), relating to departmental hearings upon the question of the sale of devices not in compliance with this act, and enacted present § 41-6-143.

41-6-143.5. Departmental hearings — Compliance of approved devices — Revocation of approval — Reapproval.

(a) Whenever the commissioner has reason to believe that a device approved under Section 41-6-143 does not comply with his standards, he shall upon 30 days' notice to the one to whom approval was issued conduct a hearing upon the question of the continued compliance of the approved device. After the hearing the commissioner shall determine whether the device meets the requirements of the applicable standard. If the device does not meet those requirements the commissioner shall give notice to the one to whom the approval has been issued of his intention to revoke the approval. If the holder of the approval fails to satisfy the commissioner that the device being sold or offered for sale meets the applicable standard within 90 days of the notice, the commissioner shall revoke the approval and shall require the withdrawal of all such devices from the market and may require that all devices sold since the notification be replaced by devices that do comply.

(b) When an approval has been revoked pursuant to this section, the device shall not be again approved unless and until it has been submitted to reapproval and it has been demonstrated, in the same manner as in an application for an original approval, that the device fully meets the requirements of the applicable standard. The commissioner may require that all previously approved items are being effectively recalled and removed from the market as a condition for reapproval.

History: C. 1953, 41-6-143.5, enacted by L. 1979, ch. 242, § 51.

41-6-144. Purchase and testing of equipment by department — Prohibition against sale of substandard devices — Injunction — Review — Appeal.

(a) The department may purchase and test equipment described in Section 41-6-141.5 to determine whether it complies with its standards.

(b) Upon identification of unapproved or substandard devices being sold or offered for sale, the commissioner shall give notice to the person selling them that he is in violation of Section 41-6-141.5 and that selling or offering them for sale is prohibited.

(c) In order to enforce the prohibition against the sale or offer for sale of unapproved or substandard devices, the commissioner may file a petition in the district court of the county in which the person maintains a place of business to enjoin any further sale or offer of sale of such unapproved or substandard devices. Upon a prima facie showing that: (1) such device is of a type required to be approved by the commissioner; (2) it has not been approved; and (3) it is being sold or offered for sale, the injunction shall be issued.

(d) Any person so enjoined may file a petition for a review of the court's order in the county in which the injunction was issued. A copy of such petition shall be served upon the commissioner and the commissioner shall have 30 days after such service to file an answer, but such petition shall not act as a stay of the injunction. At the hearing upon the petition, the judge shall sit without intervention of a jury and shall only receive evidence as to whether the devices in question: (1) are of a type for which approval by the commissioner is required; (2) have or have not been so approved; and (3) are in fact being sold or offered for sale in violation of Section 41-6-141.5. Upon a finding by the court that such device: (1) is of a type required to be approved by the commissioner; (2) that it has not in fact been approved; and (3) that it is being sold or offered for sale, the injunction shall be continued.

(e) Either party may appeal the decision of the court in the same manner as in other civil appeals from the district court.

History: C. 1953, 41-6-144, enacted by L. 1979, ch. 242, § 52.

Repeals and Enactments. — Laws 1979, ch. 242, § 52 repealed former § 41-6-144 (L.

1955, ch. 71, § 1; 1961, ch. 87, § [1]; 1967, ch. 94, § 1), relating to brake equipment requirements, and enacted present § 41-6-144.

41-6-145. Braking systems required — Adoption of performance requirements by department.

(a) Every motor vehicle and every combination of vehicles shall have a service braking system which will stop the vehicle or combination within 40 feet from an initial speed of 20 miles per hour on a level, dry, smooth, hard surface or within such shorter distance as may be specified by the department.

(b) Every motor vehicle and combination of vehicles shall have a parking brake system adequate to hold the vehicle or combination on any grade on which it is operated under all conditions of loading on a surface free from

snow, ice or loose material or which shall comply with performance standards issued by the department.

(c) When necessary for safe operation, the department may by regulation require additional braking systems.

(d) The department may adopt performance requirements for braking systems under this section. In formulating these requirements, the department shall consider standards of the United States Department of Transportation, recommendations of other agencies and organizations, different classes of vehicles, deceleration rates, speeds, weather, loads, terrain and all other factors bearing on safe highway operations.

History: C. 1953, 41-6-145, enacted by L. 1979, ch. 242, § 53.

Repeals and Enactments. — Laws 1979, ch. 242, § 53 repealed former § 41-6-145 (C.

1943, 57-7-205.1, enacted by L. 1949, ch. 65, § 1; 1961, ch. 86, § 1), relating to the inspection of brakes on motorcycles, and enacted present § 41-6-145.

COLLATERAL REFERENCES

Am. Jur. 2d. — 7A Am. Jur. 2d Automobiles and Highway Traffic § 187.

C.J.S. — 60A C.J.S. Motor Vehicles § 261.

A.L.R. — Liability of owner or operator of

motor vehicle for injury, death, or property damage resulting from defective brakes, 40 A.L.R.3d 9.

Key Numbers. — Automobiles ⇐ 148.

41-6-146. Horns and warning devices — Emergency vehicles.

(a) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with his horn but shall not otherwise use such horn when upon a highway.

(b) No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle or bell, except as otherwise permitted in this section.

(c) Any vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal. Such a theft alarm signal device may use a whistle, bell, horn or other audible signal but shall not use a siren.

(d) Every authorized emergency vehicle shall be equipped with a siren, whistle or bell, capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the department, but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the driver of such vehicle shall sound said siren when reasonably necessary to warn pedestrians and other drivers of the approach thereof.

History: C. 1953, 41-6-146, enacted by L. 1979, ch. 242, § 54.

Repeals and Enactments. — Laws 1979, ch. 242, § 54 repealed former § 41-6-146 (L.

1941, ch. 52, § 129; C. 1943, 57-7-206; L. 1975, ch. 207, § 56), relating to horns and warning devices, and enacted present § 41-6-146.

NOTES TO DECISIONS

Duty to sound horn.

In action for alleged wrongful death of eleven-year-old boy resulting from collision between defendant's automobile and bicycle, instruction that driver of vehicle intending to pass another vehicle, does not, under all circumstances, owe duty of sounding horn, but sounding of horn is left to judgment of operator in exercise of due care, conformed with this section, and was not erroneous. *Manning v. Powers*, 117 Utah 310, 215 P.2d 396 (1950).

In action for wrongful death of eleven-year-old boy, two instructions, one conforming with this section, to the effect that driver of vehicle intending to pass another vehicle does not, under all circumstances, owe duty of sounding horn, but sounding of horn is left to judgment of operator in exercise of due care, the other based on § 41-6-55(b), were not inconsistent, where instructions dealt with different fact situations. *Manning v. Powers*, 117 Utah 310, 215 P.2d 396 (1950).

This section does not place a duty upon a driver to sound his horn in any particular traffic situation, but instead requires due care in the exercise of judgment as to whether such warning is necessary. *Naisbitt v. Eggett*, 5 Utah 2d 5, 295 P.2d 832 (1956).

Failure to give a warning signal does not constitute negligence when there is no apparent necessity for such a warning. *Naisbitt v. Eggett*, 5 Utah 2d 5, 295 P.2d 832 (1956).

Instruction that driver of automobile had no duty to sound horn upon attempting to pass another vehicle was objectionable on basis that while there is no general duty to sound his horn, driver does have duty to give audible warning of approach and intention to pass where it would appear from all circumstances that such warning is reasonably necessary to ensure safe operation. *Barton v. Jensen*, 19 Utah 2d 196, 429 P.2d 44 (1967).

COLLATERAL REFERENCES

A.L.R. — Curve or hill, duty and liability with respect to giving audible signal where driver's view ahead obstructed at, 16 A.L.R.3d 897.

Intersection, duty and liability with respect to giving audible signal at, 21 A.L.R.3d 268.

Passing, duty and liability with respect to giving audible signal before, 22 A.L.R.3d 325.

Pedestrian, duty and liability with respect to giving audible signal upon approaching, 24 A.L.R.3d 183.

41-6-147. Mufflers — Prevention of noise, smoke and fumes — Air pollution control devices.

(a) Every vehicle shall be equipped, maintained and operated so as to prevent excessive or unusual noise. Every motor vehicle shall at all times be equipped with a muffler or other effective noise suppressing system in good working order and in constant operation, and no person shall use a muffler cut-out, bypass or similar device.

(b) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

(c) Every motor vehicle which has been equipped by a manufacturer with air pollution control devices must have such devices in good working order and in constant operation. An air pollution control device may be substituted for the manufacturer's original device, provided said device shall be at least as effective in the reduction of emissions from the vehicle motor as the air pollution control devices furnished by the manufacturer of said vehicle as standard equipment for purposes of the first sale at retail of vehicles of the same class. It shall be unlawful for any person to render inoperable on any motor vehicle air pollution control devices.

(d) Subsection (c) does not apply to motor vehicles altered and modified to use propane where the emissions from such modified or altered vehicle are at levels which comply with existing state or federal standards for the emission of pollutants from motor vehicles.

History: L. 1941, ch. 52, § 130; C. 1943, § 1; 1971, ch. 97, § 1; 1973, ch. 85, § 1; 1973, 57-7-207; L. 1949, ch. 65, § 1; 1955, ch. 72, ch. 86, § 1; 1979, ch. 242, § 55.

COLLATERAL REFERENCES

Utah Law Review. — Utah Environmental Problems and Legislative Response, 1972 Utah L. Rev. 479, 1973 Utah L. Rev. 1.

Am. Jur. 2d. — 7A Am. Jur. 2d Automobiles and Highway Traffic § 194.

C.J.S. — 60A C.J.S. Motor Vehicles § 260.

Key Numbers. — Automobiles ⇌ 148.

41-6-148. Mirrors.

(a) Every motor vehicle shall be equipped with a mirror mounted on the left side of the vehicle and so located as to reflect to the driver a view of the highway to the rear of the vehicle.

(b) Every motor vehicle except a motorcycle shall be equipped with an additional mirror mounted either inside the vehicle approximately in the center or outside the vehicle on the right side and so located as to reflect to the driver a view of the highway to the rear of the vehicle.

History: C. 1953, 41-6-148, enacted by L. 1979, ch. 242, § 56.

Repeals and Enactments. — Laws 1979, ch. 242, § 56 repealed former § 41-6-148 (L.

1941, ch. 52, § 131; C. 1943, 57-7-208), relating to rear-view mirrors, and enacted present § 41-6-148.

41-6-148.10. Seat belts — Design and installation — Specifications or requirements.

Seat belts. —

(a) Any safety belt or safety harness installed in a vehicle and large enough to accommodate an adult person shall be designed and installed in such manner as to prevent or materially reduce the movement of the person using the same in the event of collision or upset of the vehicle.

(b) The department shall establish specifications or requirements for approved-type safety belts and safety harnesses, attachments and installation, and the specifications or requirements shall not be lower in standard than those specifications or requirements for safety belts or safety harnesses established by the Society of Automotive Engineers or American Standards Association.

(c) No person shall sell, offer, or keep for sale any safety belt, safety harness, or attachments thereto for use in a vehicle unless of a type which has been approved by the department.

History: C. 1953, 41-6-148.10, enacted by L. 1961, ch. 86, § 2.

COLLATERAL REFERENCES

A.L.R. — Contributory negligence, automobile occupant's failure to use seat belt as, 15 A.L.R.3d 1428.

Liability of owner or operator of motor vehicle or aircraft for injury or death allegedly re-

sulting from failure to furnish or require use of seat belt, 49 A.L.R.3d 295.

Nonuse of seat belt as failure to mitigate damages, 80 A.L.R.3d 1033.

Automobile occupant's failure to use seat

belt as contributory negligence, 92 A.L.R.3d 9.

Nonuse of automobile seat belts as evidence of comparative negligence, 95 A.L.R.3d 239.

41-6-148.20. Child restraint device required — Violation as infraction — Dismissal of charge — Failure not admissible as to negligence.

(1) As used in this section, "motor vehicle" means a vehicle defined in Section 41-1-1; except authorized emergency vehicles defined in Sections 41-6-1 and 41-6-1.5, mopeds, campers, sleepers, motorcycles, motorhomes, school buses, taxicabs, vehicles owned, operated, or leased by a public transit district, commercial vehicles owned or operated by persons holding a certificate of convenience and necessity issued by the Public Service Commission, or vehicles which weigh over 10,000 pounds gross weight and are not equipped with seat belts by the manufacturer.

(2) A resident parent or legal guardian driver, who is transporting his or her child in a motor vehicle on a highway, shall:

(a) provide for the protection of a child younger than two years of age by using a child restraint device approved by the commissioner of public safety to restrain the child in the manner prescribed by the manufacturer;

(b) provide for the protection of a child two years of age or older, who is not yet five years of age, by using either a child restraint device or a safety belt approved by the commissioner of public safety to restrain the child in the manner prescribed by the manufacturer.

(3) Subsection (2) does not apply where all seating positions which can be equipped with child restraint devices or safety belts are occupied by other passengers.

(4) (a) A driver convicted of a violation of this section is guilty of an infraction and shall be fined not more than \$20 per offense.

(b) The court in which a charge is pending shall dismiss the action against a driver who, during or before any court appearance on the matter, submits proof of acquisition, rental, or purchase of a child restraint device or safety belt as required by Subsection (2).

(5) Failure to provide and use a child restraint device or safety belt to restrain a child as required under this section may not be considered comparative negligence, nor is the failure to provide and use the restraint device or safety belt admissible as evidence in the trial of a civil action with regard to negligence.

History: L. 1984 (2nd S.S.), ch. 7, § 1.

Effective Dates. — Section 2 of Laws 1984

(2nd S.S.), ch. 7 provided: "This act shall take effect on July 1, 1984."

41-6-148.29. Vehicles subject to Sections 41-6-148.29 through 41-6-148.33 — Definitions.

(1) Sections 41-6-148.29 through 41-6-148.33 apply to all motor vehicles with an original manufacturer's gross vehicle weight rating of 10,000 pounds or less operated or parked on a highway within the state.

(2) As used in this part:

(a) "Commissioner" means the commissioner of the Department of Public Safety.

(b) "Frame" means the main longitudinal structural members of the chassis of the vehicle or, for vehicles with unitized body construction, the lowest longitudinal structural member of the body of the vehicle.

(c) "Frame height" means the vertical distance between the ground and the lowest point on the frame. The distance is measured from the ground to the lowest point on the frame where the front bumper is normally attached, when the vehicle is unladen and on a level surface.

(d) "Gross vehicle weight rating (GVWR)" means the original manufacturer's gross vehicle weight rating, whether or not the vehicle is modified by use of parts not originally installed by the original manufacturer.

(e) "Manufacturer" means any person engaged in manufacturing or assembling new motor vehicles utilizing new parts or components, or a person defined as a manufacturer in current applicable Federal Motor Vehicle Safety Standards (FMVSS).

(f) "Mechanical alteration" or "mechanical lift" means modification or alteration of the chassis, suspension, or body by any means, including tires and wheels, and excluding any load, which affects the height of the motor vehicle.

(g) "O.E.M." means original equipment manufacturer.

(h) "Original equipment" means an item of motor vehicle equipment, including tires, which were installed in or on a motor vehicle or available as an option for the particular vehicle from the original manufacturer at the time of its delivery to the first purchaser.

(i) "Original manufacturer's height" means the highest distance, inclusive of the largest tires, and highest suspension available as standard or optional equipment for the particular vehicle from the original manufacturer.

(j) "Reconstructed motor vehicle" means any motor vehicle constructed or assembled principally with used parts or components.

(k) "Wheel base" means the shortest distance between the center of the front axle and the center of the rear axle.

(l) "Wheel track" means the shortest distance between the center of the tire treads on the same axle. On vehicles having dissimilar axle widths, the axle with the widest distance is used for all calculations.

(3) The provisions of Sections 41-6-148.29 through 41-6-148.33 do not apply to the following vehicles:

(a) implements of husbandry;

(b) farm tractors;

(c) road machinery;

(d) road rollers; and

(e) historical vehicles or horseless carriages that have been restored as near to original condition as is reasonably possible.

History: C. 1953, 41-6-148.29, enacted by L. 1987, ch. 128, § 1.

Meaning of "this part". — Since this article is not divided into parts, the phrase "this

part", as used in this section, apparently means §§ 41-6-148.29 to 41-6-148.33, as enacted by Laws 1987, ch. 128, §§ 1 to 4, all of which relate to modification of vehicles.

41-6-148.30. Repealed.

Repeals. — Laws 1987, ch. 128, § 5 repeals § 41-6-148.30 as last amended by Laws 1979, ch. 242, § 57 pertaining to vehicle modification. For present comparable provisions see §§ 41-6-148.29 and 41-6-148.31 to 41-6-148.33.

41-6-148.31. Standards applicable to vehicles.

(1) The following standards apply to vehicles under Sections 41-6-148.29 through 41-6-148.33:

(a) Fractions shall be excluded in all measurements and calculations.

(b) Due to slight variances in production tolerances, violations are in excess of one inch beyond the limits set by this section.

(c) Maximum heights are measured from a level surface to the bottom of the frame where the front bumper is attached by the original manufacturer. The distance of the original manufacturer's height is measured with the vehicle unladen and resting on a level surface or at any other location determined by the commissioner. The appropriate method of measurement among the following shall be used: from the ground to the lowest edge of the center line of the operator's door; from the ground to the lowest point where that door would meet the body, on vehicles without doors; or from the ground to the lowest point on the floor panel directly below the operator's position on vehicles designed without doors. The commissioner shall periodically provide rules specifying approved maximum altered heights.

(d) All replacement parts and equipment used shall be designed and capable of performing the function for which they are intended, and shall be equal to or greater in strength and durability than the original parts provided by the original manufacturer.

(e) The lowest portion of the body floor shall be not more than two inches above the top of the frame.

(f) The use of spacers to increase wheel track width is prohibited.

(g) The use of axle blocks to alter the suspension on the front axle of any vehicle is prohibited.

(2) In doubtful or unusual cases, or to meet specific industrial requirements, personnel of the Utah Highway Patrol shall inspect the vehicle and issue a permit of approval to be carried in the vehicle if the road worthiness and safe condition of the vehicle meets the intent of this part.

(3) (a) Upon notice to the party to whom the motor vehicle is registered, the Department of Public Safety shall suspend the registration of any motor vehicle equipped, altered, or modified in violation of this part.

(b) The Department of Motor Vehicles shall, under Subsection 41-1-27(b) or (d), refuse to register any motor vehicle it has reason to believe is equipped, altered, or modified in violation of Sections 41-6-148.29 through 41-6-148.33.

History: C. 1953, 41-6-148.31, enacted by L. 1987, ch. 128, § 2.

Meaning of "this part". — See same catch-line in notes following § 41-6-148.29.

41-6-148.32. Prohibitions.

(1) A person may not operate a motor vehicle on any highway or road within the state when the vehicle has been mechanically altered or changed to cause the lowest part of the body or chassis to be closer to the ground than it was at the time the vehicle was manufactured by the O.E.M., or to decrease the distance between the ground and the bottom of the vehicle frame where the front bumper is normally attached to a distance less than that which existed at the time the vehicle was manufactured.

(2) (a) A motor vehicle may not be altered or modified in any way that may cause the vehicle body or chassis to come in contact with the roadway, expose the fuel tank to damage from collision, or cause the wheels to come in contact with the body under normal operation.

(b) The horizontal plane front to rear may not differ more than two inches.

(c) No part of the original braking, steering, or suspension system may be altered, modified, disconnected, or changed in any manner that may impair the safe operation of the vehicle.

(3) The wheel track may be increased by use of tires and rims for a maximum total increase of six inches beyond the O.E.M. specification, provided the top 50% of the tires are covered by the original fenders, by rubber, or other flexible fender extenders under any loading condition.

(4) Any motor vehicle having a wheel base greater than 100 inches may increase the O.E.M. height by use of a mechanical lift up to four inches. The largest tire size available from the O.E.M. as standard or optional equipment for the particular motor vehicle may also be increased up to four inches. The maximum combined mechanical and tire lift is eight inches above O.E.M. height.

(5) (a) The maximum combined lift for motor vehicles with a wheel base of 100 inches or less shall be calculated by multiplying the O.E.M. wheel base times the O.E.M. wheel track. The product divided by a safety factor of 2,200 equals the maximum mechanical lift allowed.

(b) For example: 92 inches w/b multiplied by 58 inches w/t equals 5,336 divided by 2,200 equals 2 inches maximum mechanical lift. The largest tire size available from the O.E.M. as standard or optional equipment for a particular motor vehicle may be increased, but not to exceed the maximum mechanical lift calculated under this subsection.

(6) (a) Reconstructed motor vehicles are limited to the maximum combined lift allowed for the particular chassis used in accordance with the applicable provisions of this subsection.

(b) For example: a 1985 Ford Bronco having a 105-inch wheel base is allowed a maximum combined lift of eight inches above the O.E.M. height. Accordingly, the lower edge of the door, door edge line, or floor panel, as defined in this part, of any unladen body mounted on the chassis may not exceed 27 inches above the level surface upon which the vehicle rests.

History: C. 1953, 41-6-148.32, enacted by
L. 1987, ch. 128, § 3.

41-6-148.33. Bumpers.

(1) Every motor vehicle shall be equipped with a bumper on both front and rear of the vehicle, except those that were not originally designed or manufactured with a bumper or bumpers.

(2) On all motor vehicles under 10,000 GVWR, bumpers shall be at least 4.5 inches in vertical height, centered on the vehicle's center line, and extend no less than the width of the respective wheel track distance. Bumpers shall be securely mounted, horizontal load bearing, and attached to the vehicle's frame to effectively transfer impact when engaged.

(3) When any motor vehicle is originally or later equipped with bumpers, the bumpers shall be maintained in operational condition and shall comply with this subsection.

History: C. 1953, 41-6-148.33, enacted by
L. 1987, ch. 128, § 4.

41-6-148.40. Safety chains on towed vehicles required — Exceptions.

Safety chains on trailers. — Every towed vehicle shall be coupled by means of a safety chain, cable or equivalent device, in addition to the regular trailer hitch or coupling.

(a) Such safety chain, cable or equivalent device shall be securely connected with the chassis of the towing vehicle, the towed vehicle and the drawbar.

(b) It shall be of sufficient material and strength to prevent the two vehicles from becoming separated, and shall have no more slack than is necessary for proper turning.

(c) Such safety chain, cable or equivalent device shall be attached to the trailer drawbar [so] as to prevent it from dropping to the ground, and to assure the towed vehicle follows substantially in the course of the towing vehicle in case the vehicle[s] become separated.

(d) This requirement does not apply to a semitrailer having a connecting device composed of a fifth wheel and king pin assembly, nor to a pole trailer.

History: C. 1953, 41-6-148.40, enacted by
L. 1961, ch. 86, § 2.

41-6-149. Windshields and windows — Obstructions reducing visibility — Wipers.

(a) No person shall drive any motor vehicle with any sign, poster, or other nontransparent material upon the front windshield, sidewings, side or rear windows of such vehicle other than a certificate or other paper required to be so displayed by law, except that such other nontransparent materials may be used along the top edge of the windshield in an area not to exceed three inches to right or left of center of the windshield and such materials shall not extend downward more than four inches from the top edge of the windshield, or in the lower left-hand corner of the rear window provided it does not extend more

than three inches to the right of the left edge or more than four inches above the bottom edge of said window.

(b) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

(c) Every windshield wiper upon a motor vehicle shall be maintained in good working order.

(d) Any motor vehicle which is operated on the highways of this state and has no rear or rear side window or windows or has a rear window or rear side windows composed of, covered by or treated with any material, substance, system, or component which, when viewed from the position of the driver, obstructs the view of the driver or makes such window or windows opaque and nontransparent, shall be equipped with an exterior mirror on each side, so located with respect to the driver's position as to comply with the visibility requirements of Section 41-6-148.

(e) No person shall operate any motor vehicle on the highways of this state which does not comply with standards established by rules promulgated by the department relating to the use of products or materials designed to be used in conjunction with or in place of glazing on a motor vehicle for the purpose of reducing the effects of the sun.

History: L. 1941, ch. 52, § 132; C. 1943, § 1; 1971, ch. 100, § 1; 1979, ch. 242, § 58; 57-7-209; L. 1955, ch. 71, § 1; 1969, ch. 114, 1983, ch. 189, § 1.

COLLATERAL REFERENCES

A.L.R. — Defective vehicular windows, 3
A.L.R.4th 489.

41-6-150. Tires which are prohibited — Regulatory powers of state transportation department — Winter use of studs — Special permits — Tread depth.

(a) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.

(b) No person shall operate or move on any highway any motor vehicle, trailer, or semitrailer having any metal tire in contact with the roadway.

(c) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat, or spike or any other protuberances of any material other than rubber which project beyond the tread of the traction surface of the tire, except as otherwise provided in this section. The state department of transportation may by regulation permit the use of tires on a vehicle having protuberances other than rubber when it concludes that they will not damage the highway significantly, or constitute a hazard to life, health or property. Notwithstanding anything to the contrary contained in this section or in any such regulation, it is permissible to use on a vehicle tires with protuberances consisting of tungsten carbide studs during the periods of October fifteenth through December thirty-first and January first through March thirty-first of each year if the tungsten carbide studs shall not project beyond the tread of

the traction surface of the tire more than .050 inches; but tires bearing these tungsten carbide studs shall not be used at any time on a vehicle with a maximum gross weight in excess of 9,000 pounds unless the vehicle is an emergency vehicle or school bus, an emergency vehicle or school bus being allowed to use tires bearing these studs during these periods. It shall be permissible to use farm machinery with tires having protuberances which will not injure the highway, and also it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid.

(d) The Department of Transportation and local authorities in their respective jurisdictions may, in their discretion, issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this chapter.

(e) A person shall not operate any vehicle when one or more of the tires in use on that vehicle is in unsafe operating condition or has a tread depth less than $\frac{2}{32}$ inch measured in any two adjacent tread grooves at three equally spaced intervals around the circumference of the tire but such measurements shall not be made at the location of any tread wear indicator, tie bar, hump or fillet.

(f) A person in the business of selling tires shall not sell or offer for sale for highway use any tire which is in unsafe condition or which has a tread depth of less than $\frac{2}{32}$ inch measured as specified in Subsection (e).

History: L. 1941, ch. 52, § 133; C. 1943, § 11; 1979, ch. 242, § 59; 1981, ch. 135, § 1; 57-7-210; L. 1961, ch. 86, § 1; 1966 (1st S.S.), 1981, ch. 270, § 1.
ch. 8, § 1; 1973, ch. 87, § 1; 1977, ch. 117,

COLLATERAL REFERENCES

Am. Jur. 2d. — 7A Am. Jur. 2d Automobiles and Highway Traffic § 783.

C.J.S. — 60 C.J.S. Motor Vehicles § 260.

A.L.R. — Res ipsa loquitur as applied to accident resulting from wheel or part thereof be-

coming detached from motor vehicle, 79 A.L.R.3d 346.

Liability for injury or death allegedly caused by defective tire, 81 A.L.R.3d 318.

Key Numbers. — Automobiles ⇨ 148.

41-6-150.10. Guards or flaps at rear wheels of trucks, trailers, or truck tractors.

It shall be unlawful for any truck, truck tractor, trailer, or semitrailer which is the rearmost vehicle in any combination of vehicles, not to be equipped with suitable metal protectors or substantial flexible flaps behind the rearmost wheels to prevent, as far as practicable, such wheels from throwing dirt, water, or other materials on the windshields of vehicles following when said vehicles are operated on a public highway.

(1) Such protectors or flaps shall have a ground clearance of not more than fifty per cent (50%) of the diameter of a rear-axle wheel, under any conditions of loading of the vehicle; or,

(2) Such protectors or flaps shall have a ground clearance of not more than one-fifth of the distance from the center of the diameter of the rearmost axle directly in front of the flaps, to the flaps under any conditions of loading of the motor vehicle.

Such flaps shall be at least as wide as the tires they are protecting and directly in line with said tires; provided, however, that if the motor vehicle is so designed and constructed that the above requirements are accomplished by means of fenders, body construction, or other means of enclosure, then no such protectors or flaps shall be required; and further provided that rear wheels not covered at the top by fenders, bodies, or other parts of the vehicle shall be covered at the top by protective means extending rearward at least to the center line of the rearmost axle.

History: C. 1953, 41-6-150.10, enacted by L. 1955, ch. 73, § 1.

41-6-151. Repealed.

Repeals. — Section 41-6-151 (L. 1941, ch. 52, § 134; C. 1943, 57-7-211; L. 1949, ch. 65, § 1; 1975, ch. 207, § 57), relating to safety glass requirements, was repealed by Laws 1979, ch. 242, § 74.

41-6-151.5. Repealed.

Repeals. — Section 41-6-151.5 (L. 1973, ch. 88, § 1; 1975, ch. 207, § 58), relating to specification labels for replacement glass in motor vehicles, was repealed by Laws 1977, ch. 167, § 1.

41-6-152. Flares, fusees or electric lanterns and flags — Alternative reflector units — Duty to carry in trucks and buses — Requirements.

(a) No person shall operate any truck, bus or truck-tractor, or any motor vehicle towing a house trailer, upon any highway outside an urban district or upon any divided highway at any time from a half hour after sunset to a half hour before sunrise unless there shall be carried in such vehicles the following equipment except as provided in Subsection (b):

(1) At least three flares or three red electric lanterns or three portable red emergency reflectors, each of which shall be capable of being seen and distinguished at a distance of not less than 600 feet under normal atmospheric conditions at nighttime.

No flare, fusee, electric lantern or warning flag shall be used for the purpose of compliance with the requirements of this section unless such equipment is of a type which has been submitted to the commissioner and approved by him. No portable reflector unit shall be used for the purpose of compliance with the requirements of this section unless it is so designed and constructed as to be capable of reflecting red light clearly visible from all distances within 600 feet to 100 feet under normal atmospheric conditions at night when directly in front of lawful lower beams of head lamps, and unless it is of a type which has been submitted to the commissioner and approved by him.

(2) At least three red-burning fusees unless red electric lanterns or red portable emergency reflectors are carried.

(b) No person shall operate at the time and under conditions stated in Subsection (a) any motor vehicle used for the transportation of explosives or

any cargo tank truck used for the transportation of flammable liquids or compressed gases unless there shall be carried in such vehicle three red electric lanterns or three portable red emergency reflectors meeting the requirements of Subsection (a), and there shall not be carried in any said vehicle, or in any vehicle using compressed gas as a motor fuel, any flares, fusees or signal produced by flame.

(c) No person shall operate any vehicle described in Subsections (a) or (b) upon any highway outside of an urban district or upon a divided highway at any time when lighted lamps are not required by Section 41-6-118 unless there shall be carried in such vehicle at least two red flags, not less than 12 inches square, with standards to support such flags.

History: C. 1953, 41-6-152, enacted by L. 1979, ch. 242, § 60.

Repeals and Enactments. — Laws 1979, ch. 242, § 60 repealed former § 41-6-152 (L. 1941, ch. 52, § 135; C. 1943, 57-7-212; L. 1947,

ch. 70, § 1; 1949, ch. 65, § 1; 1975, ch. 207, § 59), relating to the duty of truck and bus operators to carry flares, fusees, or electric lanterns and flags, and enacted present § 41-6-152.

NOTES TO DECISIONS

Failure to post flares.

In action for death of decedent who was killed while hitching a small tractor to rear of an automobile, it was a question of fact for the jury whether decedent, who operated wrecker, was guilty of contributory negligence by leaving wrecker stopped facing south in north-

bound lane of highway with lights on, but without flares, where he was working between the automobile and trailer parked partially on east shoulder adjacent to automobile hoisted on wrecker when northbound vehicle veered to right to avoid wrecker and hit trailer. *Taylor v. Johnson*, 15 Utah 2d 342, 393 P.2d 382 (1964).

41-6-153. Warning signal around disabled vehicle — Time and place.

(a) Whenever any truck, bus, truck-tractor, trailer, semitrailer or pole trailer 80 inches or more in over-all width or 30 feet or more in over-all length is stopped upon a roadway or adjacent shoulder, the driver shall immediately actuate vehicular hazard warning signal lamps meeting the requirements of Section 41-6-133. Such lights need not be displayed by a vehicle parked lawfully in an urban district, or stopped lawfully to receive or discharge passengers, or stopped to avoid conflict with other traffic or to comply with the directions of a police officer or an official traffic-control device, or while the devices specified in Subsections (b) through (h) are in place.

(b) Whenever any vehicle of a type referred to in Subsection (a) is disabled, or stopped for more than 10 minutes, upon a roadway outside of an urban district at any time when lighted lamps are required, the driver of such vehicle shall display the following warning devices except as provided in Subsection (c):

(1) A lighted fusee, a lighted red electric lantern or a portable red emergency reflector shall immediately be placed at the traffic side of the vehicle in the direction of the nearest approaching traffic.

(2) As soon thereafter as possible but in any event within the burning period of the fusee (15 minutes), the driver shall place three liquid-burning flares (pot torches), or three lighted red electric lanterns, or three portable red emergency reflectors on the roadway in the following order:

(A) one approximately 100 feet from the disabled vehicle in the center of the lane occupied by such vehicle and toward traffic approaching in that lane;

(B) one approximately 100 feet in the opposite direction from the disabled vehicle and in the center of the traffic lane occupied by such vehicle; and

(C) one at the traffic side of the disabled vehicle not less than 10 feet rearward or forward thereof in the direction of the nearest approaching traffic. If a lighted red electric lantern or a red portable emergency reflector has been placed at the traffic side of the vehicle in accordance with Paragraph (A) of this subsection, it may be placed for this purpose.

(c) Whenever any vehicle referred to in this section is disabled, or stopped for more than 10 minutes, within 500 feet of a curve, hillcrest or other obstruction to view, the warning device in that direction shall be so placed as to afford ample warning to other users of the highway, but in no case less than 100 feet nor more than 500 feet from the disabled vehicle.

(d) Whenever any vehicle of a type referred to in this section is disabled, or stopped for more than 10 minutes, upon any roadway of a divided highway during the time lighted lamps are required, the appropriate warning devices prescribed in Subsections (b) and (e) shall be placed as follows:

One at a distance of approximately 200 feet from the vehicle in the center of the lane occupied by the stopped vehicle and in the direction of traffic approaching in that lane; one at a distance of approximately 100 feet from the vehicle, in the center of the lane occupied by the vehicle and in the direction of traffic approaching in that lane; one at the traffic side of the vehicle and approximately 10 feet from the vehicle in the direction of the nearest approaching traffic.

(e) Whenever any motor vehicle used in the transportation of explosives or any cargo tank truck used for the transportation of any flammable liquid or compressed gas is disabled, or stopped for more than 10 minutes, at any time and place mentioned in Subsections (b), (c) or (d), the driver of such vehicle shall immediately display red electric lanterns or portable red emergency reflectors in the same number and manner specified therein. Flares, fusees or signals produced by flame shall not be used as warning devices for vehicles of the type mentioned in this subsection nor for vehicles using compressed gas as a fuel.

(f) The warning devices described in Subsections (b) through (e) need not be displayed where there is sufficient light to reveal persons and vehicles within a distance of 1,000 feet.

(g) Whenever any vehicle described in this section is disabled, or stopped for more than 10 minutes, upon a roadway outside of an urban district or upon the roadway of a divided highway at any time when lighted lamps are not required by Section 41-6-118, the driver of the vehicle shall display two red flags as follows:

(1) If traffic on the roadway moves in two directions, one flag shall be placed approximately 100 feet to the rear and one flag approximately 100 feet in advance of the vehicle in the center of the lane occupied by such vehicle.

(2) Upon a one-way roadway, one flag shall be placed approximately 100 feet and one flag approximately 200 feet to the rear of the vehicle in the center of the lane occupied by such vehicle.

(h) When any vehicle described in this section is stopped entirely off the roadway and on an adjacent shoulder at any time and place hereinbefore mentioned, the warning devices shall be placed, as nearly as practicable, on the shoulder near the edge of the roadway.

(i) The flares, fusees, red electric lanterns, portable red emergency reflectors and flags to be displayed as required in this section shall conform with the requirements of [Section] 41-6-152 applicable thereto.

History: C. 1953, 41-6-153, enacted by L. 1979, ch. 242, § 61.

Repeals and Enactments. — Laws 1979, ch. 242, § 61 repealed former § 41-6-153 (L. 1941, ch. 52, § 136; C. 1943, 57-7-213; L. 1947, ch. 70, § 1), relating to warning signals re-

quired to be placed around disabled vehicles, and the times and places, and enacted present § 41-6-153.

Cross-References. — Parked vehicle, duty to display lights, § 41-6-129.

NOTES TO DECISIONS

Failure to display.

Where jury determined that failure of operator of stalled truck to have his lights on and his failure to set out flares constituted negligence which was the proximate cause of the collision, such finding could not be reconciled with finding that another driver who stopped to assist

the operator of the stalled truck was negligent in being about the truck in the absence of lights without first setting out flares, but that this negligence was not a proximate cause of his injuries. *Schweitzer v. Stone*, 13 Utah 2d 199, 371 P.2d 201 (1962).

COLLATERAL REFERENCES

Am. Jur. 2d. — 7A Am. Jur. 2d Automobiles and Highway Traffic § 191.

C.J.S. — 60A C.J.S. Motor Vehicles § 260.

A.L.R. — Liability of motorist colliding with

person engaged about stalled or disabled vehicle on or near highway, 27 A.L.R.3d 12.

Key Numbers. — Automobiles ⇨ 148.

41-6-154. Hazardous materials — Transportation regulations — Fire extinguishers.

(a) The Department of Transportation shall adopt such regulations as may be necessary for the safe transportation of hazardous materials. Such regulations shall duplicate or be consistent with current Hazardous Materials Regulations of the United States Department of Transportation. The department of transportation is hereby authorized to adopt said Hazardous Materials Regulations by reference and any such adoption shall be construed to incorporate amendments thereto as may be made from time to time.

(b) Any person operating a vehicle transporting any hazardous material as a cargo or part of a cargo upon a highway shall at all times comply with regulations of the Department of Transportation adopted pursuant to the provisions of this section.

(c) Said vehicle shall be marked or placarded at such places and in such manner as have been prescribed by regulations adopted pursuant to this section.

(d) Every said vehicle shall be equipped with fire extinguishers of a type, size and number approved by the Department of Transportation, filled and ready for immediate use, and placed at a convenient point on the vehicle so used.

History: C. 1953, 41-6-154, enacted by L. 1979, ch. 242, § 62.

Repeals and Enactments. — Laws 1979, ch. 242, § 62 repealed former § 41-6-154 (L.

1941, ch. 52, § 137; C. 1943, 57-7-214; L. 1949, ch. 65, § 1), relating to transportation of explosives or flammable or corrosive liquids, and enacted present § 41-6-154.

COLLATERAL REFERENCES

C.J.S. — 60A C.J.S. Motor Vehicles § 248.

Key Numbers. — Automobiles ⇌ 147.

41-6-154.10. Air conditioning equipment — Requirements.

(a) The term "air conditioning equipment" as used or referred to in this section shall mean mechanical vapor compression refrigeration equipment which is used to cool the driver's or passenger compartment of any motor vehicle.

(b) Such equipment shall be manufactured, installed and maintained with due regard for the safety of the occupants of the vehicle and the public and shall not contain any refrigerant which is toxic to persons or which is flammable.

(c) The department may adopt and enforce safety requirements, regulations and specifications consistent with the requirements of this section applicable to such equipment which shall correlate with and, so far as possible, conform to the current recommended practice or standard applicable to such equipment approved by the Society of Automotive Engineers.

(d) No person shall have for sale, offer for sale, sell or equip any motor vehicle with any such equipment unless it complies with the requirements of this section.

(e) No person shall operate on any highway any motor vehicle equipped with any air-conditioning equipment unless said equipment complies with the requirements of this section.

History: C. 1953, 41-6-154.10, enacted by L. 1955, ch. 71, § 1.

41-6-154.20. Television receivers in motor vehicles prohibited if driver can see viewing screen — Exception.

(a) No motor vehicle operated on the highways of this state shall be equipped with television-type receiving equipment so located that the viewer or screen is visible from the driver's seat.

(b) This section does not prohibit the use of television-type receiving equipment used exclusively for safety or law enforcement purposes, provided such use is approved by the department.

History: C. 1953, 41-6-154.20, enacted by L. 1979, ch. 242, § 63.

41-6-154.50. Motorcycles — Required equipment — Brakes.

(a) Every motorcycle and every motor-driven cycle shall be equipped with the following items, which shall comply with the regulations of the department:

- (1) one head lamp which, when factory equipped with an automatic lighting ignition system, shall not be disconnected;
- (2) one tail lamp;
- (3) either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate;
- (4) one red reflector on the rear, either as part of the tail lamp or separately;
- (5) one stop lamp;
- (6) a braking system, other than parking brake, as provided in Section 41-6-145;
- (7) a horn or warning device in accordance with Section 41-6-146;
- (8) a muffler and emission control system in accordance with Section 41-6-147;
- (9) a mirror in accordance with Section 41-6-148; and
- (10) tires in accordance with Section 41-6-150.

(b) The commissioner is authorized to require an inspection of the braking system on any motor-driven cycle and to disapprove any such braking system on a vehicle which in his opinion is equipped with a braking system that is not designed or constructed as to insure reasonable and reliable performance in actual use.

(c) The commissioner may refuse to register or may suspend or revoke the registration of any vehicle referred to in this section when he determines that the braking system thereon does not comply with the provisions of this section.

(d) No person shall operate on any highway any vehicle referred to in this section in the event the commissioner has disapproved the braking system upon such vehicle.

History: C. 1953, 41-6-154.50, enacted by
L. 1979, ch. 242, § 64.

COLLATERAL REFERENCES

A.L.R. — Liability of owner or operator of damage resulting from defective brakes, 40
motor vehicle for injury, death, or property A.L.R.3d 9.

41-6-155. Vehicles and equipment must be in safe mechanical condition.

No person shall drive or move on any highway any motor vehicle, trailer, semitrailer, or pole trailer, or any combination thereof unless the equipment upon any and every said vehicle is in good working order and adjustment as required in this act, and said vehicle is in such safe and good mechanical condition as not to endanger the driver or other occupant or any person or property upon the highway, or as not to emit pollutants in excess of those

prescribed and permitted under the rules and regulations of the air conservation council.

History: L. 1941, ch. 52, § 138; C. 1943, 57-7-215; L. 1973, ch. 89, § 1; 1979, ch. 242, § 65.

COLLATERAL REFERENCES

A.L.R. — Effect of violation of safety equipment statute as establishing negligence in automobile accident litigation, 38 A.L.R.3d 530.

41-6-156. Inspection by officers — Certificate of inspection.

(a) The members of the state highway patrol or other peace officers, may at any time upon reasonable cause to believe that a vehicle is unsafe or not equipped as required by law, or that its equipment is not in proper adjustment or repair, require the driver of such vehicle to stop and submit such vehicle to an inspection and such test with reference thereto as may be appropriate.

(b) In the event such vehicle is found to be in unsafe condition or any required part or equipment is not present or is not in proper repair and adjustment, the officer shall give a written notice to the driver and shall send a copy to the department. Said notice shall require that such vehicle be placed in safe condition and its equipment in proper repair and adjustment, specifying the particulars with reference thereto and that a certificate of inspection and approval be obtained within five days.

(c) In the event any such vehicle is, in the reasonable judgment of the officer, in such condition that further operation would be hazardous, the officer may require in addition that the vehicle not be operated under its own power or that it be driven to the nearest garage or other place of safety.

(d) Every owner or driver shall comply with the notice and secure an official certificate of inspection and approval within 5 days or the vehicle shall not be operated on the highways of this state.

History: L. 1941, ch. 52, § 139; C. 1943, 57-7-216; L. 1957, ch. 78, § 10; 1979, ch. 242, § 66.

Cross-References. — School districts' vehicles, inspection of, § 41-7-3.

41-6-157. Enforcement of inspection requirements.

(a) No person driving a vehicle shall refuse to submit such vehicle to an inspection and test when required to do so by an authorized officer of the department or any peace officer.

(b) Every owner or driver, upon receiving a notice as provided in Section 41-6-156, shall comply therewith and shall within five days secure an official certificate of inspection and approval which shall be issued in duplicate, one copy to be retained by the owner or driver and the other copy to be forwarded to the department. In lieu of compliance with this subsection the vehicle shall not be operated, except as provided in the next succeeding subsection.

(c) No person shall operate any vehicle after receiving a notice with reference thereto as above provided, except that the members of the department

and other peace officers may, when to do so is reasonable and not excessively dangerous, allow the vehicle to be driven to the residence or place of business of the owner or driver or to the nearest garage where repairs are available, and not thereafter, until said vehicle and its equipment has been placed in proper repair and adjustment and otherwise made to conform to the requirements of this act and a certificate of inspection and approval shall be obtained as promptly as possible thereafter.

(d) In the event repair or adjustment of any vehicle or its equipment is found necessary upon inspection, the owner of said vehicle may obtain such repair or adjustment at any place he may choose, but in every event an official certificate of inspection and approval must be obtained, otherwise such vehicle shall not be operated upon the highways of this state.

History: L. 1941, ch. 52, § 140; C. 1943, 57-7-217; L. 1957, ch. 78, § 11.

41-6-158. Inspection required — Inspection certificate required.

(a) The department shall at least once each year require that every motor vehicle registered in this state or bearing temporary permits or Utah plates, except off-highway vehicles, be inspected and that an official certificate of inspection and approval be obtained for each vehicle.

(b) The inspection shall be made and certificate obtained with respect to the mechanism, brakes, and equipment of every vehicle designated by the department under this subsection.

(c) The department may establish rules for the administration and enforcement of this section.

(d) The department may authorize the acceptance in this state of a certificate of inspection and approval issued in another state having an inspection law similar to that of this state and may extend the time within which a certificate shall be obtained by the resident owner of a vehicle which was not in this state during the time an inspection was required.

(e) No person may drive a motor vehicle registered in this state upon any street or highway without the vehicle having been inspected under this section unless exempted under Subsection 41-1-20.5(5).

History: L. 1941, ch. 52, § 141; C. 1943, 57-7-218; L. 1957, ch. 78, § 12; 1967, ch. 95, § 1; 1975, ch. 122, § 1; 1978, ch. 14, § 1; 1979, ch. 242, § 67; 1986, ch. 68, § 3.

Amendment Notes. — The 1986 amendment redesignated former Subsections (b) and (c) as present Subsections (d) and (e); deleted the second sentence of former Subsection (a), the provisions of which appear in Laws 1979, ch. 242, § 67; redesignated the first, third and fourth sentences of former Subsection (a) as

present Subsections (a) to (c), respectively; rewrote Subsection (c), the provisions of which appear in Laws 1979, ch. 242, § 67; in Subsection (e), substituted "No person may" for "It shall be unlawful for any person to" and "the vehicle having been inspected under this section unless exempted under Subsection 41-1-20.5(5)" for "displaying the safety inspection sticker during the time designated by the department"; and added a comma following "brakes" in Subsection (b).

NOTES TO DECISIONS

Constitutionality.

This section does not violate the Fourth or Fourteenth Amendments of the federal Constitution. *State v. Christensen*, 639 P.2d 205 (Utah 1981), appeal dismissed, 459 U.S. 802, 103 S. Ct. 24, 74 L. Ed. 2d 40 (1982).

Statutes requiring a driver's license, proper vehicle registration, and safety inspection did not unconstitutionally deprive defendant of any claimed "right of locomotion," due process, or equal protection of the laws. *State v. Stevens*, 718 P.2d 398 (Utah 1986).

COLLATERAL REFERENCES

Am. Jur. 2d. — 7A Am. Jur. 2d Automobiles and Highway Traffic § 202.

C.J.S. — 60A C.J.S. Motor Vehicles § 248.

A.L.R. — Liability for negligence in carry-

ing out governmentally required inspection of motor vehicle, 70 A.L.R.3d 1239.

Key Numbers. — Automobiles ⇐ 147.

41-6-159. Suspension of registration.

The State Tax Commission may suspend the registration of any vehicle which it determines is in an unsafe condition or which after notice and demand is not equipped as required in this act.

History: L. 1941, ch. 52, § 142; C. 1943, 57-7-219; L. 1955, ch. 71, § 1; 1986, ch. 68, § 4.

Amendment Notes. — The 1986 amendment substituted "an" for "such" preceding "unsafe condition" and deleted "as to constitute a menace to safety" following "unsafe condition" and "or for which a required certificate

has not been obtained" at the end of the section.

Meaning of "this act". — The term "this act" referred to in this section, means Laws 1941, Chapter 52, which appeared as § 41-6-1 et seq. The reference probably should be to "this chapter".

41-6-160. Official inspection stations — Fees — Permits — Suspension or revocation — Utah-based interstate commercial motor carriers.

(1) The department shall issue permits and provide instructions and all necessary forms to official stations for the inspection of motor vehicles and the issuance of official certificates of inspection and approval.

(2) (a) The department may charge a fee to cover administration costs of this program.

(b) Receipts from the fee shall be utilized by the department as a dedicated credit for expenses incurred in the administration of the Safety Inspection Section of the Utah Highway Patrol.

(c) Funds received in excess of these expenses shall be allocated to other programs within the department as determined by the Legislature through the annual appropriations act.

(3) (a) Application for permit shall be made upon an official form and granted only when the department is satisfied that the applicant station is properly equipped and has competent personnel to make inspections and adjustments.

(b) Before issuing a permit, the department may require the applicant to file a bond that will provide a guarantee that the applicant station will make compensation for any damage to a vehicle during an inspection or adjustment due to negligence on the part of an applicant or its employees.

- (4) (a) The department shall supervise and inspect the stations.
- (b) The department may suspend or revoke any permit issued to a station that it finds is not properly equipped or conducted.
- (c) The department shall maintain at its office lists of all stations holding permits and of those whose permits have been suspended or revoked.
- (5) (a) Upon receiving notice of the suspension or revocation of his license, the operator shall immediately terminate all inspection activities, and on demand by the department return all certificates of inspection, license, and supplies.
- (b) The department shall issue a receipt for all unused certificates of inspection.
- (6) The commissioner of public safety may establish procedures governing the issuance of Utah safety inspection certificates to Utah-based interstate commercial motor carriers.

History: L. 1941, ch. 52, § 143; C. 1943, 57-7-220; L. 1957, ch. 78, § 13; 1961, ch. 86, § 1; 1969, ch. 115, § 1; 1979, ch. 242, § 68; 1986, ch. 68, § 5; 1987, ch. 161, § 144.

Amendment Notes. — The 1986 amendment rewrote the section to the extent that a detailed comparison is impracticable.

The 1987 amendment, effective January 1,

1988, redesignated and restructured former Subsections (a) to (d) as present Subsections (1) to (5) while adding the paragraph designations therein; deleted former Subsection (e) relating to hearings after suspension or revocation of a permit; redesignated former Subsection (f) as present Subsection (6); and made minor changes in phraseology and punctuation.

41-6-160.5. Hearing board created — Members — Term — Meetings — Adjudicative proceedings.

- (1) (a) There is created a hearing board to consist of one member from the Department of Business Regulation, one member from the Motor Vehicle Dealers Administration, and one member of the staff of the attorney general.
- (b) The governor shall appoint all members for a term of four years commencing July 1, 1969.
- (2) (a) The hearing board shall be called by the superintendent of the Utah Highway Patrol and shall hear all evidence and information regarding the suspension or revocation of an official inspection station license.
- (b) The hearing board shall comply with the procedures and requirements of Chapter 46b, Title 63, in its adjudicative proceedings.

History: C. 1953, 41-6-160.5, enacted by L. 1969, ch. 115, § 2; 1987, ch. 161, § 145.

Amendment Notes. — The 1987 amendment, effective January 1, 1988, redesignated former Subsection (a) as present Subsection (1) while adding the paragraph designations therein, redesignated former Subsection (b) as

present Subsection (2)(a) while deleting the former last sentence relating to findings and conclusions, added Subsection (2)(b), deleted former Subsection (c) relating to judicial review, and made minor changes in phraseology and punctuation.

41-6-161. Permits not transferable — Certificate of inspection — Fees.

(a) No license for an official inspection station may be assigned or transferred or used at any location other than a designated location and every license shall be posted in a conspicuous place at the location designated.

(b) The person operating an official inspection station shall issue a certificate of inspection and approval upon an official form to the owner of a vehicle upon inspecting the vehicle and determining that its required equipment is in good condition and proper adjustment, otherwise no certificate may be issued. When required by the department a record and report shall be made of every inspection and every certificate issued.

(c) A charge of \$1 shall be assessed by the department for each inspection certificate issued by the department. Receipts from such charges shall be deposited in the Highway Maintenance and Construction Fund. Official inspection stations licensed by the Department of Public Safety may charge in addition to the \$1 fee a reasonable fee for labor in performing safety inspections, not to exceed:

- (1) \$5 or less for motorcycles;
- (2) \$9 or less for passenger cars and 3/4 ton pickup trucks;
- (3) \$12 or less for 4-wheel drive and split axle, and larger trucks that necessitate disassembly of front hub or removal of rear axle for inspection.

(d) Official inspection stations may return unused inspection certificates in a quantity of ten or more and shall be reimbursed by the department for the cost.

History: L. 1941, ch. 52, § 144; C. 1943, 57-7-221; L. 1957, ch. 78, § 14; 1961, ch. 88, § 1; 1967, ch. 95, § 2; 1971, ch. 101, § 1; 1977, ch. 168, § 1; 1986, ch. 68, § 6.

Amendment Notes. — The 1986 amendment rewrote the section to the extent that a detailed comparison is impracticable.

41-6-162. Falsely representing to be official station.

(a) No person shall in any manner represent any place as an official inspection station unless such station is operating under a valid permit issued by the department.

(b) No person shall issue a certificate of inspection and approval unless then holding a valid permit hereunder.

(c) No unauthorized person shall knowingly possess official certificates of inspection.

History: L. 1941, ch. 52, § 145; C. 1943, 57-7-222; L. 1957, ch. 78, § 15; 1979, ch. 242, § 69.

41-6-163. Counterfeit certificates of inspection.

(a) No person may make, issue, or knowingly use any imitation or counterfeit of an official certificate of inspection.

(b) No person may present or cause or permit to be presented in order to obtain or renew the registration on any motor vehicle any certificate of inspection and approval knowing the same to be fictitious or issued for another vehicle or issued without an inspection having been made.

History: L. 1941, ch. 52, § 146; C. 1943, 57-7-223; L. 1986, ch. 68, § 7.

Amendment Notes. — The 1986 amendment substituted "may" for "shall" in Subsection (a) and, in Subsection (b), substituted

"may present" for "shall display" and "presented in order to obtain or renew the registration on any motor vehicle" for "displayed on any vehicle."

41-6-163.5. Emissions inspection — Automatic repealer.

Section 41-6-163.6 shall be automatically repealed upon attainment of the National Ambient Air Quality Standards in effect on January 1, 1983, or upon termination of the federal inspection and maintenance program requirements, whichever occurs first.

History: C. 1953, 41-6-163.5, enacted by L. 1983 (1st S.S.), ch. 4, § 1.

41-6-163.6. Emissions inspection — County program.

(1) After December 31, 1983, the governing body of each county required under federal law to utilize an emissions inspection and maintenance program for motor vehicles shall require that a certificate of emissions inspection or a waiver or other evidence that the motor vehicle is exempt from emissions inspection and maintenance program requirements be presented at the time of, and as a condition precedent to, registration or renewal of registration of a motor vehicle.

(2) The governing body of a county identified in Subsection (1) shall adopt and promulgate rules, in no event stricter than federal requirements, to facilitate compliance with federal requirements, with respect to emissions standards, test procedures, inspections stations, repair requirements and dollar limits for correction of deficiencies, and certificates of emissions inspections. The rules may allow for a phase-in of the program by geographical area. All agricultural implements of husbandry and any motor vehicle which qualifies for registration as a farm truck shall be exempt from the provisions of this act.

(3) An inspection station shall issue a certificate of inspection for each motor vehicle which meets the inspection and maintenance program requirements established in rules issued under Subsection (2). The inspection shall be annual, and, if Section 41-6-158 regarding automobile inspections is in effect, within the same time limit applicable to an inspection under Section 41-6-158.

(4) The counties required under federal law to utilize an emissions inspection and maintenance program shall collect information about and monitor the program, and supply information to an appropriate committee of the legislature, as designated by the legislative management committee, in October of

1983 and at other times designated by that appropriate committee to identify program needs including funding needs.

History: C. 1953, 41-6-163.6, enacted by L. 1983 (1st S.S.), ch. 4, § 2.

Meaning of "this act". — The term "this

act," referred to in this section, means Laws 1983 (1st S.S.), Chapter 4, which appears as §§ 41-6-163.5 and 41-6-163.6.

41-6-164. Violation of act — Misdemeanor.

It is a misdemeanor for any person to violate any of the provisions of this act, unless such violation is by this act or other law of this state declared to be a felony.

History: L. 1941, ch. 52, § 147; C. 1943, 57-7-224.

Meaning of "this act". — The term "this act" referred to in this section, means Laws 1941, Chapter 52, which appeared as § 41-6-1

et seq. The reference probably should be to "this chapter".

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

41-6-164.5. Violation of chapter.

Every person who commits, attempts to commit, conspires to commit, or aids or abets in the commission of, any act declared in this chapter to be a crime, whether individually or in connection with one or more other persons or as a principal, agent or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of this chapter is likewise guilty of such offense.

History: C. 1953, 41-6-164.5, enacted by L. 1979, ch. 242, § 70.

41-6-165. Requiring or knowingly permitting driver to unlawfully operate vehicle.

It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle to require or knowingly to permit the operation of such vehicle upon a highway in any manner contrary to law.

History: L. 1941, ch. 52, § 148; C. 1943, 57-7-225; L. 1949, ch. 65, § 1.

41-6-165.5. Government-owned vehicles subject to chapter.

The provisions of this chapter applicable to drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, this state or any county, city, town, district or any other political subdivision of the state, subject to such specific exceptions as are set forth in this chapter.

History: C. 1953, 41-6-165.5, enacted by L. 1979, ch. 242, § 71.

41-6-166. Appearance upon arrest for misdemeanor — Setting bond.

(1) Whenever any person is arrested for any violation of this act punishable as a misdemeanor, the arrested person, for the purpose of setting bond, shall in the following cases, be taken without unnecessary delay before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of such offense and is nearest or most accessible with reference to the place where said arrest is made, in any of the following cases:

(a) When a person arrested demands an immediate appearance before a magistrate.

(b) When the person is arrested upon a charge of driving or being in actual physical control of a vehicle while under the influence of alcohol or any drug or combination thereof as prescribed in Section 41-6-44.

(c) When the person is arrested upon a charge of failure to stop in the event of an accident causing death, personal injuries, or damage to property.

(d) In any other event when the person arrested refuses to give his written promise to appear in court as hereinafter provided, or when in the discretion of the arresting officer, a written promise to appear is insufficient.

History: L. 1941, ch. 52, § 149; C. 1943, 57-7-226; L. 1975 (1st S.S.), ch. 7, § 1; 1979, ch. 242, § 72.

Compiler's Notes. — The 1975 amendment added the present designation of Subsection (1); the section has never contained a Subsection (2).

Meaning of "this act". — See same catchline in notes following § 41-6-164.

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

NOTES TO DECISIONS

ANALYSIS

Nearest and most accessible magistrate.

Purpose.

Venue.

Nearest and most accessible magistrate.

Where there was a magistrate about one mile from the place of arrest, it was improper for arresting officers to take defendant to more distant town for breathalyzer test, and to ticket him to appear there in the city court. *Wells v. City Court*, 535 P.2d 683 (Utah 1975).

Purpose.

The purpose of this section is to preserve the rights of a person by ensuring that he be afforded a prompt opportunity to effect his release from custody and to prevent the arresting officer from being selective in determining before which magistrate the charge will be

lodged and tried. *Woytko v. Browning*, 659 P.2d 1058 (Utah 1983).

Venue.

Venue for prosecution of driving under the influence is with the magistrate before whom this section requires that defendant be taken after arrest. *Hillyard v. Logan City Court*, 578 P.2d 1270 (Utah 1978).

Where judge of circuit court who was the nearest magistrate to the place where defendant was arrested had authorized, as permitted by § 77-20-2, one of the court's officers to admit persons to bail and fix the amount thereof as part of the court's pretrial release service at

the county jail, the taking of defendant, who was arrested late at night, to the county jail, where he was released on his own recognizance by the court officer, rather than before the judge did not constitute error and did not de-

prive the circuit court of jurisdiction to hear the case; this section deals with venue, not jurisdiction. *Woytko v. Browning*, 659 P.2d 1058 (Utah 1983).

COLLATERAL REFERENCES

C.J.S. 61A C.J.S. Motor Vehicles § 593.

Key Numbers. — Automobiles ⇨ 349.

41-6-167. Notice to appear in court — Contents — Promise to comply — Signing — Release from custody — Official misconduct.

(a) Upon any violation of this act punishable as a misdemeanor, whenever a person is immediately taken before a magistrate as hereinbefore provided, the police officer shall prepare in triplicate or more copies a written notice to appear in court containing the name and address of such person, the number, if any, of his operator's license, the registration number of his vehicle, the offense charged, and the time and place when and where such person shall appear in court.

(b) The time specified in said notice to appear must be at least five days after such arrest unless the person arrested shall demand an earlier hearing.

(c) The place specified in said notice to appear must be made before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of such offense.

(d) The arrested person, in order to secure release as provided in this section, must give his written promise satisfactory to the arresting officer so to appear in court by signing at least one copy of the written notice prepared by the arresting officer. The officer shall deliver a copy of such notice to the person promising to appear. Thereupon, said officer shall forthwith release the person arrested from custody.

(e) Any officer violating any of the provisions of this section shall be guilty of misconduct in office and shall be subject to removal from office.

History: L. 1941, ch. 52, § 150; C. 1943, 57-7-227; L. 1949, ch. 65, § 1; 1983, ch. 183, § 34.

Meaning of "this act". — See same catchline in notes following § 41-6-164.

NOTES TO DECISIONS

ANALYSIS

Applicability.

Refusal to sign notice.

Applicability.

This section does not deal with jurisdiction and it has application only when a citation is issued in lieu of an arrest and no appearance is made before a magistrate. *Woytko v. Browning*, 659 P.2d 1058 (Utah 1983).

Refusal to sign notice.

Owner of parked car who refused to sign parking violation ticket has no remedy under federal Civil Rights Act, 42 U.S.C. § 1983, against various authorities who placed him in custody, took him before magistrate, refused

his AAA bond card as security for bond, and placed him in jail cell. *Wells v. Ward*, 470 F.2d 1185 (10th Cir. 1972).

41-6-168. Violation of promise to appear as misdemeanor — Appearance by counsel.

(a) Any person willfully violating his written promise to appear in court, given as provided in this act, is guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested.

(b) A written promise to appear in court may be complied with by an appearance by counsel.

History: L. 1941, ch. 52, § 151; C. 1943, 57-7-228; L. 1979, ch. 156, § 2; 1983, ch. 183, § 35; 1983, ch. 187, § 4.

Meaning of "this act". — See same catch-line in notes following § 41-6-164.

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

NOTES TO DECISIONS

Cited in *State v. Milligan*, 727 P.2d 213 (Utah 1986).

41-6-169. Arrests without warrants.

The foregoing provisions of this act shall govern all police officers in making arrests without warrant for violations of this act, but the procedure prescribed herein shall not otherwise be exclusive of any other method prescribed by law for the arrest and prosecution of a person for an offense of like grade.

History: L. 1941, ch. 52, § 152; C. 1943, 57-7-229.

Meaning of "this act". — See same catch-line in notes following § 41-6-164.

41-6-169.10. Repealed.

Repeals. — Section 41-6-169.10 (L. 1961, ch. 86, § 2), making failure to stop vehicle at command of police officer punishable by fine and/or imprisonment and mandating revocation of op-

erator's license upon conviction, was repealed by Laws 1978, ch. 33, § 54. For present provisions, see §§ 41-2-18, 41-6-13.5.

41-6-170. Record of violation not admissible in civil action.

No record of the conviction of any person for any violation of this act shall be admissible as evidence in any court in any civil action.

History: L. 1941, ch. 52, § 153; C. 1943, 57-7-230.

Meaning of "this act". — See same catch-line in notes following § 41-6-164.

NOTES TO DECISIONS

Guilty plea.

In a suit for a declaratory judgment by insurer to determine rights under a policy containing an exclusion suspending coverage when the automobile is operated by a driver under the influence of alcohol, it was error to admit evidence of insured's plea of guilty to a criminal charge of drunken driving. *Utah*

Farm Bureau Ins. Co. v. Chugg, 6 Utah 2d 399, 315 P.2d 277 (1957).

This section did not prohibit the use of a guilty plea to a criminal charge of negligent homicide under § 76-5-206 as a declaration against interest at a subsequent civil trial involving the same circumstances. *Dixon v. Stewart*, 658 P.2d 591 (Utah 1982).

COLLATERAL REFERENCES

C.J.S. — 61A C.J.S. Motor Vehicles § 588.

Key Numbers. — Automobiles ⇌ 359.

41-6-171. Conviction shall not affect credibility as a witness.

The conviction of a person upon a charge of violating any provision of this act or other traffic regulation less than a felony shall not affect or impair the credibility of such person as a witness in any civil or criminal proceeding.

History: L. 1941, ch. 52, § 154; C. 1943, 57-7-231.

Meaning of "this act". — See same catchline in notes following § 41-6-164.

COLLATERAL REFERENCES

Am. Jur. 2d. — 81 Am. Jur. 2d Witnesses § 573.

C.J.S. — 98 C.J.S. Witnesses § 507.

Key Numbers. — Witnesses ⇌ 345(1).

41-6-172. Improper disposition or cancellation of notice to appear or traffic citation — Official misconduct — Misdemeanor.

(a) It shall be unlawful and official misconduct for any police officer or other officer or public employee to dispose of a notice to appear or of any traffic citation without the consent of the magistrate before whom the person was to appear.

(b) Any person who cancels or solicits the cancellation of any notice to appear or any traffic citation, in any manner other than as provided by law, shall be guilty of a misdemeanor.

History: C. 1943, 57-7-231.10, enacted by L. 1949, ch. 65, § 1.

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

41-6-173. Keeping of records — Making and forwarding of abstract upon conviction or forfeiture of bail — Form and contents — Public inspection — Official misconduct.

(a) Every magistrate or judge of a court not of record and every clerk of a court of record shall keep a full record of every case in which a person is charged with any violation of this act or of any other law regulating the operation of vehicles on highways.

(b) Within 10 days after the conviction or forfeiture of bail of a person upon a charge of violating any provision of this act or other law regulating the operation of vehicles on highways every said magistrate of the court or clerk of the court of record in which such conviction was had or bail was forfeited shall prepare and immediately forward to the department an abstract of the record of said court covering the case in which said person was so convicted or forfeited bail, which abstract must be certified by the person so required to prepare the same to be true and correct. Report need not be made of any conviction involving the illegal parking or standing of a vehicle.

(c) Said abstract must be made upon a form furnished by the department and shall include the name and address of the party charged, the number, if any, of his operator's license, the registration number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment, or whether bail forfeited and the amount of the fine or forfeiture as the case may be.

(d) Every court of record shall also forward a like report to the department upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

(e) The failure, refusal, or neglect of any such judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be ground for removal therefrom.

(f) The department shall keep all abstracts received hereunder at its main office and the same shall be open to public inspection during reasonable business hours.

History: L. 1941, ch. 52, § 155; C. 1943, 57-7-232; L. 1949, ch. 65, § 1; 1983, ch. 183, § 36.

Meaning of "this act". — See same catch-line in notes following § 41-6-164.

COLLATERAL REFERENCES

C.J.S. — 61A C.J.S. Motor Vehicles § 588.
Key Numbers. — Automobiles ⇌ 349.

41-6-174. Repealed.

Repeals. — Section 41-6-174 (L. 1941, ch. 52, § 156; C. 1943, 57-7-233), relating to the uniformity of interpretation of traffic provisions,

was repealed by Laws 1979, ch. 242, § 74.

41-6-175. Short title of act.

This act may be cited as the Uniform Act Regulating Traffic on Highways.

History: L. 1941, ch. 52, § 157; C. 1943, 57-7-234.

Meaning of "this act". — See same catch-line in notes following § 41-6-164.

41-6-175.5. Conflict with Federal Motor Carrier Safety Regulations.

Whenever the rules of this chapter, as they pertain to commercial motor carriers are found to be in conflict with the Federal Motor Carrier Safety Regulations, the Federal Motor Carrier Safety Regulations will apply.

History: C. 1953, 41-6-175.5, enacted by L. 1975, ch. 207, § 60.

41-6-176 to 41-6-180. Repealed.

Repeals. — Laws 1986, ch. 103, § 12 repeals §§ 41-6-176 to 41-6-180, as enacted or amended by Laws 1981, ch. 182, relating to

odometers. For present comparable provisions, see §§ 41-1-167 and 41-1-174.

ARTICLE 17**MOTOR VEHICLE SEAT BELT USAGE****41-6-181. Short title.**

This part [article] is known as the "Motor Vehicle Seat Belt Usage Act."

History: C. 1953, 41-6a-181, enacted by L. 1986, ch. 186, § 1.

41-6-182. Driver and front seat passengers.

(1) Except as provided in Section 41-6-148.20 for children under five years of age and except as provided in Subsection (2) for passengers who are at least five years of age but younger than 18 years of age, the driver and front seat passengers of a motor vehicle, as defined in Subsection 41-6-148.20(1), operated on a street or highway in this state shall wear a properly adjusted and fastened safety belt system, which meets standards promulgated by the Department of Public Safety.

(2) The driver of a motor vehicle shall secure or cause to be secured a properly adjusted and fastened safety seat belt system on any passenger in the front seat who is at least five years of age but younger than 18 years of age.

History: C. 1953, 41-6a-182, enacted by L. 1986, ch. 186, § 2.

41-6-183. Exceptions.

This part [article] does not apply to a driver or front seat passenger of:

- (1) a motor vehicle manufactured before July 1, 1966;
- (2) a motor vehicle in which the driver or passengers possess a written verification from a licensed physician that the driver or passenger is unable to wear a safety seat belt system for physical or medical reasons;
- (3) a motor vehicle which is not required to be equipped with a safety seat belt system under federal law;
- (4) a motor vehicle operated by a rural letter carrier of the United States Postal Service while performing the duties of a rural letter carrier; or
- (5) a motor vehicle engaged in pick up, delivery, or service operations involving repeated starts and stops and requiring the front seat occupant to frequently and repeatedly enter and leave the vehicle.

History: C. 1953, 41-6a-183, enacted by L. 1986, ch. 186, § 3.

41-6-184. Enforcement.

Enforcement of this part [article] by state or local law enforcement agents shall be only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of Title 41 other than this part, or another offense.

History: C. 1953, 41-6a-184, enacted by L. 1986, ch. 186, § 4.

41-6-185. Penalty for violation.

A person who violates Section 41-6-182 shall be fined \$10. Points for a motor vehicle reportable violation, as defined under Section 41-2-1 [41-2-102], may not be assessed against any person for a violation of Section 41-6-182.

History: C. 1953, 41-6a-185, enacted by L. 1986, ch. 186, § 5; L. 1987, ch. 136, § 6.

Amendment Notes. — The 1987 amendment in the second sentence substituted

"Points for a motor vehicle reportable violation, as defined under Section 41-2-1, may not" for "No motor vehicle moving violation points may."

41-6-186. Compliance — Civil litigation.

The failure to wear a seat belt does not constitute contributory or comparative negligence, and may not be introduced as evidence in any civil litigation on the issue of injuries or on the issue of mitigation of damages.

History: C. 1953, 41-6a-186, enacted by L. 1986, ch. 186, § 6.